96-42

INDUSTRIAL COST RECOVERY

(96-42)

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES

OF THE

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

H.R. 6667

TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT RELATING TO AUTHORIZATION EXTENSIONS AND INDUSTRIAL COST RECOVERY

MARCH 12, 1980

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Committee on Public Works and Transportation

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INDUSTRIAL COST RECOVERY

WEDNESDAY, MARCH 12, 1980

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON WATER RESOURCES,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:02 a.m., in room 2167, Rayburn House Office Building, Hon. Ray Roberts (chairman of the subcommittee) presiding.

Mr. ROBERTS. The Subcommittee on Water Resources will please come to order.

The Subcommittee on Water Resources meets this morning to receive testimony on H.R. 6667. This bill would amend the Federal Water Pollution Control Act to extend certain program authorizations and to repeal the industrial cost recovery provisions of the act.

[The bill follows:]

96TH CONGRESS
2D SESSION

H. R. 6667

To amend the Federal Water Pollution Control Act relating to authorization extensions and industrial cost recovery.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 1980

Mr. ROBERTS (for himself, Mr. CLAUSEN, and Mr. JOHNSON of California) introduced the following bill; which was referred to the Committee on Public Works and Transportation

---

A BILL

To amend the Federal Water Pollution Control Act relating to authorization extensions and industrial cost recovery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 104(u) of the Federal Water Pollution Control Act is amended—

(1) in paragraph (2), by striking out "and $3,000,000 for fiscal year 1980" and by inserting in lieu thereof "$3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, and $3,000,000 for fiscal year 1982"; and

(2) in paragraph (3), by striking out "and $1,500,000 for fiscal year 1980" and inserting in lieu thereof "$1,500,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, and $1,500,000 for fiscal year 1982".

(b) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by striking out "and 1980" and inserting in lieu thereof "1980, 1981, and 1982".

(c) Section 112(c) of the Federal Water Pollution Control Act is amended by striking out "and $7,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$7,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, and $7,000,000 for the fiscal year ending September 30, 1982".

(d) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1980" and inserting in lieu thereof "September 30, 1980, September 30, 1981, and September 30, 1982".

(e) Section 208(j)(9) of the Federal Water Pollution Control Act is amended by striking out "and $400,000,000 for fiscal year 1980" and inserting in lieu thereof ", $400,000,000 for fiscal year 1980, $400,000,000 for fiscal year 1981, and $400,000,000 for fiscal year 1982".

READEX FICHE

(f) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof "$60,000,000 for fiscal year 1980, $60,000,000 for fiscal year 1981, and $60,000,000 for fiscal year 1982".

(g) Section 517 of the Federal Water Pollution Control Act is amended by striking out "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $150,000,000 for the fiscal year ending September 30, 1982".

SEC. 2. (a) Section 204(b) of the Federal Water Pollution Control Act is amended—

(1) in paragraph (1), by striking out "; (B) has made provision" and all that follows down through the semicolon at the end of clause (B) of such paragraph and by redesignating clause (C) of such paragraph (and any cross references thereto) as clause (B);

(2) by striking out paragraph (3); and

(3) by striking out paragraph (6).

(b) Section 75 of the Clean Water Act of 1977 is amended by striking out subsections (b) and (d).

(c) Section 201(h) of the Federal Water Pollution Control Act is amended by striking out the last sentence thereof.

(d) Section 213(d) of the Federal Water Pollution Control Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2)".

(e) The amendments made by this section shall take effect on December 27, 1977.

Mr. ROBERTS. The ICR requirement was established in the 1972 act. Since then, the subcommittee has received numerous reports alleging that ICR was a burden to both cities and industries.

In order to assess the impact of ICR, Congress provided for a study and a moratorium in the 1977 amendments to the act. EPA submitted the study to Congress in January 1979. The basic conclusion of the report was that the current ICR program is not achieving the statutorily intended purpose.

To date, EPA has not made any recommendations regarding ICR. However, the subcommittee has continued to receive reports that ICR is not working and should be abolished.

The purpose of today's hearing is to examine the need for industrial cost recovery.

Our first witness this morning is Chris Beck, Assistant Administrator for Water and Hazardous Materials. Today is the first time we have had the pleasure of having Chris with us since his appointment. Mr. Beck, I want to welcome you, and I look forward to working with you.

Regarding your agency, there has been substantial improvement in your overall image and I think your overall performance in line with the recommendations of the Congress in the last few months, and I am very much pleased with it.

Before I present Mr. Beck, I recognize the distinguished gentleman from California, Mr. Clausen.

Mr. CLAUSEN. Thank you, Mr. Chairman. I want to join you in welcoming Mr. Beck, Ms. Hurd, Mr. Smith, Mr. Longest, and Mr. Schatzow before the committee, and to state that a lot of my own thoughts, I think, have been addressed—which has almost become a custom—by the chairman. The similarity in our views over the years has been astonishingly parallel, and sometimes comes back to haunt me.

But the thing that I have appreciated, Mr. Beck—and I want to say this to you publicly—I have appreciated what I would describe as a refreshing candor in the exchange that you have had with me and my office and other members of the leadership of the committee.

But I want to thank you, Mr. Chairman, for scheduling these hearings on a number of Water Pollution Act provisions which are fundamental to our clean water efforts.

At the outset, let me say that I think it is entirely appropriate for us to be here today, questioning whether and to what extent these EPA programs should be continued, and I might add that it is by no means an accident that we find ourselves going through this process.

As my colleagues here in the committee so well know, we purposely wrote the act's major amendments of 1972 and 1977 in such a way that we, here in the Congress, would be required on a periodic basis to review in detail the underlying assumptions and current effectiveness of the various program requirements set out in this major environmental law.

We did this for a number of reasons. We recognize that as time does not stand still, neither do economic conditions and the needs and priorities of our Nation. We realize that our storehouse of knowledge would be continually growing, and that as this occurred, new directions of clean water emphasis were likely to emerge. We recognize, as we were successful in addressing the problems we attacked first, others would crop up, requiring attention, and perhaps most importantly, we were realistic enough to recognize that as much as we do so often like to believe otherwise, we were after all only human, and as a result not entirely infallible in our overall decisionmaking, and this of course includes the whole of the process between the House and the Senate.

I happen to believe in all candor, and frankly, Mr. Chairman, that the position that we have taken consistently since 1972 has more than adequately stood the test of time and scrutiny—more so than the other body, if I could be a little bit provincial about this. We have challenged them every step of the way, to come back to realism and a rational approach, and I want to commend you, Mr. Chairman, for the permanence with which you have stood by some of us that have been attempting to bring some sense of reason to this.

So we designed the Federal Water Pollution Control Act in such a way that every so often, we would have to examine the underlying premises and effectiveness of various aspects of our national clean water program, and that is what brings us here today.

The bill which is the focus of these hearings, H.R. 6667, is perhaps best understood by discussing it in terms of two major functions.

The first function involves reauthorization for a number of ongoing EPA programs and authorities. Perhaps most important among these are the reauthorizations of the act's section 208, areawide water quality planning program, and section 106, which is the State assistance grant program.

The 208 program addresses a problem no other Clean Water Act program can solve, a problem which is of such a magnitude that it may prevent us from achieving our 1983 goal of fishable and swimmable water in the area of nonpoints source pollution.

The 106 grants program is also an extremely important piece of our total water pollution control effort, providing funds to the States to assist them in monitoring, enforcement, construction grants management, permitting, and operation and maintenance training activities.

Now, this is not to say, of course, that the other program reauthorizations contained in this legislation are not also important; exactly the opposite is true. These programs are very important, particularly the personnel-oriented training and forecasting grant authorities contained in sections 112 and 104 of the act.

The second major function of the legislation involves section 204, and it is a requirement for EPA and certain grantees to establish and administer an industrial cost recovery program.

The bill we have introduced calls for an out and out repeal of the ICR provisions, and before we get to the witnesses' testimony, I would just like to offer a couple of thoughts on this issue.

Back in 1977, with the backing of the Chair and the other members of this committee, I offered the amendment which initially put the ICR moratorium in place. I did so because there were serious misgivings about ICR's effectiveness and there was need for EPA to study the matter and submit recommendations to the Congress concerning ICR's future.

We gave the agency 18 months, and 18 months later, we were told that the study was completed, but that the recommendations were not, and this despite the fact that a consultant hired by EPA to perform the study had itself concluded and recommended to EPA that ICR be repealed.

Nevertheless, we acquiesced to EPA's request for more time, and last year, we extended the moratorium for another additional 12 months.

Today, we find ourselves with almost 9 of these 12 extension months gone, and as close as I can tell, we are at the same point we were almost 1 year ago—still waiting for EPA's recommendations. This is totally unsatisfactory.

Mr. Chairman, we have been receiving input from all sections of the country and all sectors of the economy, all of it advocating the same resolution for ICR: repeal. We are told that ICR is not good for anyone, not the least of all, the grantees who are supposed to be helping with our construction grants program. And through all of this, we are continually told by EPA that if we would only wait a little longer, the agency would be able to figure out some way to make ICR work as intended.

For myself, Mr. Chairman, in conclusion, I have what I believe is still an open mind on the ICR problem. I am open to constructive and reasonable alternatives. However, it is going to take a very strong case to refute the information we already have supporting repeal, and to convince me that something other than repeal is for the best interest of our country.

They say that good things are worth waiting for. Let us hope that with respect to the EPA's ICR recommendations, the same holds true.

So again, Mr. Chairman, I join you in welcoming these individuals, who have a very difficult task and a major responsibility in attempting to justify the nonposition of the administration.

Mr. **Roberts**. I thank the gentleman from California for the tremendous leadership he has provided us in this committee.

Chris, I want to say one other thing to you, commendatory, I hope. During the time that the moratorium had actually expired because Congress had not acted on it, and there was a gap in this period when you took the bull by the horns and extended it by administrative order, and I thank you for that and commend you for it.

We are happy to have you before the committee.

TESTIMONY OF ECKARDT C. BECK, ASSISTANT ADMINISTRATOR FOR WATER AND HAZARDOUS MATERIALS, ENVIRONMENTAL PROTECTION AGENCY, ACCOMPANIED BY STEVE SCHATZOW, ACTING DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF WATER PLANNING AND STANDARDS; HENRY LONGEST, DEPUTY ASSISTANT ADMINISTRATOR; MYRNA HURD, DIVISION DIRECTOR; JIM SMITH, ASSOCIATE ASSISTANT ADMINISTRATOR

Mr. **Beck**. Thank you, Mr. Chairman, and other members of the subcommittee. I am pleased to be here today, and I am pleased to be able to talk about the Clean Water Act reauthorization and also to talk in more detail about the ICR program.

I have prepared a rather lengthy written statement, and with your permission, I would like to submit it for the record and summarize some of the points associated with it.

[Statement referred to follows:]

STATEMENT OF ECKARDT C. BECK, ASSISTANT ADMINISTRATOR FOR WATER AND WASTE MANAGEMENT, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman and Members of the Subcommittee, I am pleased to be here this morning to discuss with you pending reauthorizations of the Clean Water Act as well as the status of the ICR program, specifically some preliminary thoughts from EPA's on-going evaluation of that program.

I would like to begin by addressing the Clean Water Act reauthorization request which was submitted earlier this month to the Congress. Before turning to the specific programs, I would like to note at the outset that many of our program requests are at considerably lower funding levels than those contained in the bill pending before the Committee, H.R. 6667. While we appreciate the sponsors' concern that adequate authorizations are available for program operations, we believe that the levels we have requested will permit EPA to carry out its present program responsibilities. The requested amounts also represent sound budgetary policy in light of our present economic situation. For this reason, we urge the Committee to adopt our appropriation reauthorization funding levels as their own.

SECTION 104

Section 104(g)(1) of the Clean Water Act authorizes support for manpower training efforts associated with publicly owned treatment works. The focus of the Federal effort at present is training instructors and developing curricula to provide States with support for actual operation of training programs. We have requested reauthorization of this program under section 104(u)(2) at an appropriation level of $2.5 million for fiscal year 1981.

In addition, certain technical training efforts are carried out under section 104(g)(3) of the Act. Funds requested to be authorized under section 104(u)(1) support this training program which is carried out at our National Training and Operations Technology Center in Cincinnati, Ohio. Although the program will continue to provide specialized technical training, over the next few years we will be placing a greater emphasis on training programs to assist State assumption of construction grants management responsibilities under the 205(g) program.

Approximately $1.5 million of our total reauthorization request of $20,697,000 for section 104(U)(1) will be devoted to this training program.

The majority of funds requested to be appropriated under the 104(u)(1) reauthorization will go toward abatement and control efforts in support of the Agency's toxic pollutant strategy. This includes certain water quality program coordination efforts and area specific programs in the Great Lakes and Chesapeake Bay.

These programs have been implemented in recent years, and although there is no authorization provided under H.R. 6667, as introduced, we urge the Committee to adopt the funding levels we have requested for these functions under section 104(u)(1).

Included under the water quality monitoring analysis program operations are efforts to manage toxic pollutants and continued implementation of toxic water monitoring strategy. This includes providing pollutant control strategies based on assessments of environmental distribution and exposure/risk analysis to assist in establishing the basis for the section 307(a) toxic list, to assist States defining areas where BAT may not be adequate to control pollution, and assessment of the sources of toxic pollutants entering POTWs and recommendations for appropriate regulatory strategies. The program also implements a water monitoring strategy to collect and analyze data to support EPA management.

Under the Great Lakes water quality program, State water quality standards and management plans receive special attention to insure that both are supportive of the objectives contained in the international Great Lakes Water Quality Agreement of 1979. In addition, the program supports efforts to evaluate and coordinate Great Lakes and toxic and hazardous material control programs as well as airborne pollutants programs. We plan an increased emphasis on translating pollutant source data into implementable regulatory programs. Certain surveillance programs will concentrate on Lake Ontario and on increasing quality control and data interpretation for the fish and sediment analyses programs.

The Chesapeake Bay Program, under the abatement and control program, will continue to conduct the final integration of the research in the development of predictive capacity to assess the effects of pollutant loadings to the system, development of a source assessment protocol for toxic substances and nutrients entering the estuarine system from point and nonpoint sources, definition of the transport and fate of toxic substances in the system, and synthesis of data to evaluate control options to ameliorate eutrophication and major exosystem changes such as the disappearance of submerged aquatic vegetation. The environment management study will assess the existing management structure and propose viable control alternatives to achieve effective management of the Bay, its uses and resources. Sythesized reports for toxics, submerged aquatic vegetation, eutrophcation, and environmental management will be produced and integrated into informaiton useful to Bay region decision makers.

I would like to briefly mention two other related programs for which EPA has not requested reauthorization. Under Section 104(g)(2), EPA has in the past accomplished water quality related manpower forecasting. This function in recent years has been integrated into an overall program in our Research and Development Office. For this reason, we are not requesting reauthorization of this program under section 104(u)(3).

Section 112 of the Clean Water Act authorizes funding for university undergraduate training programs. While in the early years of the Act there was a particular need for encouraging university programs providing undergraduate training of students in water quality control occupations, we are now in a position where this training is provided as standard curricula in universities and Federal involvement is no longer necessary. Thus, we are not requesting reauthorization of this program.

SECTION 106

The section 106 program is an integral part of the water pollution control program providing funds to assist the States in carrying out and administering a wide variety of pollution control activities under the Clean Water Act.

Traditionally, the States have used section 106 funds to supplement State resources devoted to monitoring, enforcement, section 402 permit activities under the National Pollutant Discharge Elimination System (NPDES), municipal operations and maintenance and training, and limited number of individual State activities. In addition, section 106 funds have been utilized by States to implement the construction grants program management. As States move toward delegation under section 205(g) of the Act, some of the section 106 funds previously used for that program administration have been directed to meeting new environmental program efforts such as quality assurance for monitoring, toxic problem identification, and best available technology (BAT) requirements. This has required relatively constant Federal funding under section 106.

At present, Federal funds compose about one-third of the total monies used to support administration of pollution control activities under section 106. For Fiscal Year 1981, we have requested an authorization appropriation of $48.73 million which we believe will provide necessary program assistance to the States. Currently, the States are contributing approximately $100 million annually to administer and implement 106 programs.

States efforts funded under section 106 are crucial to the operation and administration of effective State water pollution control programs. The activities discussed below complement one another and must be managed in concert for the states to effectively benefit from the already limited available resources. The existing State levels of effort among these diverse but complementary program activities provide an excellent basis from which to move closer toward the integrated State environmental management plans being developed through the State/EPA Agreement process.

Since 1976 the Regional Offices have been primarily responsible for managing and monitoring the State 106 grants. We are currently involved in a major effort to evaluate and upgrade management of 106 grant funds in an effort to ensure that States and EPA agree upon cost-effective and timely use of the funds in all program activities.

Primary pollution control efforts under section 106 include:

General planning.—Includes water quality standards, municipal facility planning not funded under 201, wasteload allocation development for water quality based limitations beyond CWA minimum requirements, and 208 dredge and fill programs. Nonpoint source planning is supported by 208 funding.

Permits, compliance, and enforcement.—Includes municipal and industrial permit issuance, compliance evaluation and enforcement of 404, and NPDES and State permit programs. Thirty-three States have accepted delegation. Additional States are seeking delegation which requires substantial improvements in the entire water quality management program (e.g., monitoring and water quality standards). EPA, in administering the program in non-delegated States, is assisted by those States, particularly in the areas of compliance and enforcement.

Most permits will be due to be reissued by 1982. This is a substantial workload. Permits will be revised for conventional and non-toxic pollutants under the 1977 Amendments. Toxic pollution control (best available technology (BAT) or equivalent) and pretreatment provisions must also be incorporated as required by the 1977 Amendments. This represents a substantial shift in the program from conventional pollutants (e.g., biological oxygen demand and fecal coliform) to toxics.

Under section 404, a new provision under the 1977 Amendments authorizes State delegation of the permit program for dredged material. Such delegations generally will require new programs at the State level similar to NPDES.

Monitoring.—Includes ambient monitoring for general determination of water quality for ambient waters, and intensive surveys for general problem identificaiton and determination of industrial and municipal wasteload allocations for permits. In addition, monitoring must support NPDES and pretreatment regulatory programs for compliance and enforcement. As the water program focuses on toxics, monitoring will be increasingly complex and resource intensive requiring more sophisticated equipment and operator personnel.

Operation and maintenance.—Includes State programs to improve operation and maintenance of sewage treatment plants and operator training. This area is of paramount importance to assure the billions invested in construction sewage treatment plants result in improved water quality and facilities which are operated up to design levels.

Emergency response.—Includes program administration and emergency response to spills threatening water quality. Clean-up costs are not eligible.

Pretreatment.—Includes development and operation of State pretreatment programs as required by the 1977 Amendments for industries which discharge toxics into municipal treatment plants. This program impacts the NPDES program, which must incorporate pretreatment requirements into municipal permits, and monitoring to support the NPDES program.

An agencywide work group will be formed soon to develop and implement ways to assure that 106 funds are effectively utilized and managed at the State and EPA Regional level. The group will be guided by the following assumptions:

Integrated priorities, across traditional program lines, on an annual and long-range basis, must be established.

Improved program evaluation and accountability are essential.

Improved procedures for management and fiscal accountability are needed.

Any changes in 106 management must be approached in recognition of State concerns and the need for program stability.

Guidelines for program implementation resulting from this work group effort will be an important component of the section 106 state administration grants.

INTEGRATED ENVIRONMENTAL ASSISTANCE ACT

Mr. Chairman, I would like to digress for a moment to draw your attention to an important Administration bill, "The Integrated Environmental Assistance Act." This legislation would permit great flexibility, encourage innovations and simplify administrative requirements associated with environmental grant programs administered by EPA. On January 22, the Administrator appeared before the Senate Subcommittee on Environmental Pollution to discuss this proposal, and, with your permission, I would like to submit for the Committee's consideration the materials presented at that earlier hearing and note that the bill enjoys widespread support from Governors to the Sierra Club.

This Act will benefit the water programs. Although section 201 construction grants would not be included under the provisions of the Integrated Environmental Assistance Act, other water programs would. As I have indicated, we are working closely with the States and localities through the State/EPA Agreement mechanism. This Act complements and strengthens that effort. With this Act we will be able to encourage still better planning and provide for innovative, original approaches. I urge you to give this proposal careful and positive attention.

SECTION 208

Under section 208, Congress gave EPA a mandate to address water pollution problems. The 208 plans of the States and areawide agencies, when complete, will address both point and nonpoint source controls. States and areawide agencies have now virtually completed the major elements of the point source program which was the initial priority of the section 208 work. We are now turning toward the important nonpoint source needs in the plans.

Development of nonpoint source control strategy began about two years ago when EPA initiated a major overhaul of 208 program management designed to make it more effective. One of the most important changes was strongly urged and endorsed by the House Public Works and Transportation Subcommittee on Oversight and Review: a focus on building a technically adequate data base.

A large body of research in the last decade has produced evidence that nonpoint sources contribute a major share of many serious pollutants to our lakes and streams. More than 68 percent of our 246 river basins experience problems from agricultural sources; 52 percent from urban runoff; 43 percent from septic systems; and 30 percent from mining. Studies of individual cities have shown concentrations of certain toxic metals in stormwater runoff many times greater than concentrations in municipal sewage.

Without effective control, nonpoint source pollution will prevent achievement of our 1983 "fishable and swimmable" goal in parts of the waters of at least 37 States. There is no doubt that nonpoint sources have a direct and serious impact on the uses Americans make of their water. Nonpoint sources provide a pathway for toxic and hazardous pollutants to enter the aquatic environment. We are concerned with the frequent findings of heavy metals in urban and mining runoff, of pesticides and herbicides in agricultural runoff, and of industrial waste and pesticides in our ground water. In many urban areas, nonpoint pollution has raised the cost of providing safe drinking water.

Behind statistics like these, there are also real human impacts—uses of water denied to individual communities. On Long Island, urban runoff has closed beaches, shellfish areas, and drinking water wells. Urban runoff in the Denver area has rendered much of its water unsuitable for municipal supply, irrigated agriculture, and recreation. Certain Great Lakes fish violate FDA standards for interstate commerce because of PCB contamination attributed to nonpoint sources. Salinity reduces crop production on 25 percent of the irrigated land in the West. And the Nation pays more than 500 million dollars a year to remove sediment from valuable reservoirs, harbors, and channels.

Within the next few years, we expect to have proven the effectiveness and applicability of a broad set of agricultural, urban stormwater, and ground water controls. By 1983, we will be able to recommend cohesive strategies for urban stormwater control and ground water protection. We will have provided assistance to scores of communities to carry out nonpoint source controls, and will have set the stage for wide implementation.

Our strategy has both technical and managerial aspects. Our technical strategy is to test the cost-effectiveness of urban, agricultural, and ground water controls by applying them under controlled conditions in prototype projects. These projects represent a range of climatic, hydrologic, and physiographic conditions. In-depth water quality monitoring—before and after controls—will improve our understanding of the cause-effect relationships between pollution controls and stream water quality. These prototype projects will develop data not currently available. Having tested nonpoint source control technologies in the field, we will transfer proven, cost-effective controls to other communities, saving them considerable time and expense as they develop their own solutions.

For urban runoff, we are implementing non-structural stormwater controls in 30 carefully selected urban areas at a total cost of 20 million dollars through fiscal year 1981. For example, one project in Austin, Texas is protecting a lake from pollution by nutrients, sediment, and heavy metals through a combination of detention basins and locally developed ordinances. Another project, in Santa Ana, California, is using oil and grease traps and other measures which will reduce bacteria, heavy metals, and sediments now contaminating an estuary. At the end of three years, we will have data to answer most of the critical questions surrounding urban runoff and its control.

For agriculture, we have initiated nearly 30 projects with the Department of Agriculture to test selected controls "on the ground" to determine rancher and farmer attitudes, and to document costs of controls and effects on stream quality.

Farmer participation has been high in one upstate New York project, aimed at keeping barnyard and dairy wastes from degrading the Cannonsville Reservoir, a drinking water source for New York City. Another project in four Texas counties is keeping animal wastes out of streams by constructing settling ponds and lagoons and building diversion channels around feedlots and holding areas. The benefits of these and other 208-funded projects will be widespread and will include better crop yields in some area. Implementing the Rural Clean Water Program will assist both

EPA and the Department of Agriculture in reducing agricultural pollution in problem watersheds as well.

Our strategy also includes prevention for ground water contamination. Nearly 80 percent of our cities, representing 30 percent of our population, rely on underground sources of drinking water and another 10 million families use individual wells. Localized contamination problems are becoming more widespread, often associated with nonpoint sources of pollution and increasing population density. In 1980 and 1981 we are initiating 20 ground water prototype projects to develop and implement control strategies which will be transferable to other parts of the country.

On the management side, one of the largest issues in nonpoint source control is financing. The most practical approach to achieving implementation is to ensure that the plans include fiscal impact analysis and that State and local decisionmakers have the information to make sound choices among alternatives. We have, therefore, initiated a financial management assistance project to increase the capabilities of State and local water quality managers in fiscal policy, financial planning, and management approaches.

Our funding request of $34 million for these nonpoint source activities will be adequate for fiscal year 1981 operations.

SECTION 314

Section 314 of the Clean Water Act authorizes a program to restore and protect the Nation's estimated 38,000 publicly owned freshwater lakes.

Until recently, the program effort was directed toward developing effective lake restoration methodologies, i.e., the actual prevention and clean-up mechanisms. The program has now attained a level of maturity sufficient to shift administration toward full scale implementation. A range of techniques have been proven as effective lake restoration and protection measures applicable by States and localities in a wide range of site specific problems. In addition, with the recent promulgation of the section 314 cooperative agreement regulations, which require a close working relationship between EPA and the States, State lake restoration programs can be fully incorporated in annual State/EPA agreements.

With the current thrust of the program shifting toward restoring lake water quality, as opposed to demonstrating clean-up technologies, we anticipate from 30 to 35 projects may be approved for funding during the next year.

To date, grants have been awarded in 36 States to classify lakes according to trophic condition (up to $100,000 per State), analyze pollution problems and design an engineering solution (diagnostic/feasibility studies, up to $100,000 per lake), and implement controls (50% Federal share, no limit).

Under this program, we have also funded diagnostic/feasibility studies as a part of the President's Urban Initiative as well as several projects in conjunction with the Department of Agriculture's Rural Clean Water Program.

The benefits that can be realized as a result of lake restoration projects are many. The most evident are improved fishing and swimming, which are the two basic goals of the Clean Water Act. However, measureable benefits in other areas are also being realized, including:

Improved flood control—healthy lakes provide better impoundments in controlling wet weather flood waters;

Property value increases an local economic development—useable lakes serve as recreation and development areas that benefit individuals, municipalities, and industries;

Fish/wildlife preservation—healthy lakes foster habitats and a better ecological balance for fish and wildlife;

Agricultural productivity—controls designed to prevent eutrophication of lakes through prevention of soil loss help to maintain agricultural productivity; and

Public health—in addition to providing improved water quality for recreational activities, clean lakes provide the benefit of reduced drinking water treatment costs.

In order to insure that available funds are directed toward projects that provide the most public benefits, EPA is conducting an intensive evaluation of completed and ongoing lake restoration projects. The first results in a review of some 28 clean lakes projects have indicated that almost all projects accrue benefits in each of the above categories and that over 80 percent of the projects have accrued direct measurable benefits that are greater than the costs of clean-up and maintenance.

To implement this program for fiscal year 1981, we have requested an appropriation authorization of $13,500,000 which we believe will be adequate to implement proposed operations for the coming year.

SECTION 517

This section of the bill contains general reauthorization of EPA's Clean Water Act efforts which are not specifically authorized under the Act. This covers personnel and administrative related expenses for our water programs as well as support for certain program efforts, including the effluent standards and guidelines program, the NPDES permit program, emergency response efforts, and construction management activities provided to EPA by the Corps of Engineers to assure the technical and fiscal integrity of projects. We have requested an appropriation reauthorization of this section in the amount of $146.4 million for fiscal year 1981, which is comparable to that of the Committee bill, H.R. 6667.

ICR

Let me now turn to the issue of the Industrial Cost Recovery (ICR) provision of the Clean Water Act.

The congressionally adopted moratorium on ICR charges, in 1977 and then again in 1979, was to permit a review of the effectiveness and workability of the program. EPA contracted for such a study, the results of which were submitted to the Congress in January of 1979. However, neither we, nor the Members, were satisfied with the approach taken in conducting that study and we have since been conducting an in-house review of the program objectives and potential effectiveness. That review is not yet completed, but we would like to provide you with some preliminary thoughts resulting from our on-going evaluation, which we believe are relevant to your current consideration of the appropriate approach to the ICR program. We well be submitting our report and recommendations to the Committee shortly, but I would like to take a few minutes now to indicate some ideas from our preliminary analysis.

First, it may be possible for an industrial cost recovery program to achieve the original intent of Congress—the elimination of a preferential subsidy to industries discharging into publicly owned wastewater treatment systems. Our review makes it appear that industrial users of POW's do, indeed, enjoy some degree of subsidy in comparison to similar industries which treat and discharge their own wastes.

The extent and importance of this subsidy is difficult to quantify and depends on a number of factors such as location, type of discharge, flow and loadings, sophistication of the waste treatment process, etc. In some situations individual industries clearly find it economically preferable to stay out of the system and develop their own treatment capacity. Nevertheless, it is fair to assert that indirect dischargers are relieved of the financial burden of raising capital for development of plant facility not directly related to increased production; they are relieved of bearing the full market cost of that money which their counterpart industry has to bear in the financial market; and in many cases they are also spared the substantial management, administrative and legal costs associated with operation and maintenance of a treatment system, as well as the requirements for application of a discharge permit and accompanying monitoring and reporting requirements.

Another consideration which the Agency believes argues persuasively for the maintenance of a system of dedicated revenues, such as ICR, is an increasing apprehension about the financial capacity of municipalities to make necessary operational improvement, facility replacements and upgradings in the absence of an earmarked pool of revenues.

Most grantee revenue systems now in place are designed only to repay past obligations (debt service) and to provide for actual annual operation and maintenance expenses. Few grantee revenue systems include a charge for major system improvements and rehabilitation that will be required in the future.

This results from a failure on the part of most grantees to have in place revenue programs which forecast long-term capital needs and identify potential financing to cover those needs. The absence of this planning component assumes treatment systems now being constructed will always be adequate to satisfy a grantee's needs and will never require major rehabilitation. This is not a valid assumption unless Congress intends to continue providing municipalities with sewage treatment construction grants after all first-round grant needs have been satisfied. Given the magnitude of present unmet needs for basic treatment facility, EPA could not support expanding grant eligibility for a new category of sewage facility reconstruction. For this reason, we are convinced that economic independence for local sewage treatment programs is essential. ICR is one component, in some cases a small one, in the local sewage treatment revenue programs that can be of assistance in generating income dedicated exclusively to treatment system improvements.

One thing which is clear in our evaluation of the application of ICR to individual municipal systems and to the participating industrial users is that no one grantee and no one industrial user is alike. Each public system is different with different facilities, different service constraints, and different administrative, management and operational considerations. Likewise, the financial, physical and industrial operations considerations which compel industry to either tie into or stay out of municipal treatment system are peculiar to that specific industry, its location, market, economic health, tax situation, etc.

For this reason, it is very difficult to generalize about the uniform application or removal of ICR systems across the nation. Some of the options which we have considered attempt to accommodate this situation by providing a process which permits more flexibility in consideration of the individual circumstances of the grantee and its industrial users.

If Congress decides to retain ICR as an element of the Federal Construction Grants Program, we believe that measures should be considered which will alleviate the administrative burden imposed on some grantees by allowing more flexibility.

One such potential measure would be to increase the flow exemption from 25,000 gallons per day (GPD) to 50,000 GPD of equivalent sanitary waste. Our preliminary analysis of this level of exclusion indicates that it would exempt 83 percent of industry now using municipal treatment systems from ICR requirements while retaining 87 percent of the potential ICR revenues. As an additional increment to the existing statutory limitation of 25,000 GPD, it would exclude an additional 6 percent of industry while reducing receipts by 4 percent. This would significantly decrease billing and other administrative requirements for grantees.

In addition to lessening the administrative burden on certain grantees, an increase in the GPD flow exemption would benefit a greater number of small firms that in many instances are unable to afford or obtain financing for self-treatment facilities. Many of these firms are "family businesses" in urban areas. A significant number would be considered marginal according to standard profitability indicators and would probably cease operations if required to pay for sewage treatment capacity.

A major disadvantage to this option is that grantees would have less incentive to inventory industrial users and characterize process waste streams. This information is important to protect plant performance and sludge.

Another modification EPA is considering would be to permit grantees flexibility in application of ICR. Under this approach, grantees could be exempted from ICR program requirements upon a satisfactory showing that ICR revenues are not needed in meeting long-range obligations for treatment system improvement or rehabilitation. In other words, if a grantee can demonstrate its existing funding mechanisms provide for future capital expenditures and ICR insignificantly contributes to the grantee's funding program, ICR program involvement would not be required.

An exempted grantee should be required to demonstrate elimination of ICR will not result in a disproportionate share of current and future treatment system costs being imposed on residential users of the POTW; rather, existing funding mechanisms must require industry to pay its share of future treatment system construction costs. Industry's total share of costs may be retained by the grantee or a portion of the payment could be returned to the Treasury if industry receives significant benefits from the sewage treatment construction grants program. Of necessity, each case would have to be judged individually, and at that time, a determination could be made regarding whether a grantee should return a portion of the industry payments to the Federal Government. All revenue collected from industry and retained by the grantee should be dedicated to treatment system improvement, some of which could be tailored to industrial treatment needs.

Although this approach may be appropriate for those municipalities which can make the threshold showing that ICR revenues would not significantly contribute to future capital requirements, we are convinced that in certain instances, ICR program participation probably should be required. There are many grantees, especially small grantees, that reserve up to 90 percent of treatment capacity for one or a few industrial users. In some cases, the system itself was specifically designed to accommodate the particular waste loading of the industry. These grantees could not afford to operate and maintain a treatment system if the primary industrial users withdrew from the facility, and without a mechanism for recouping construction costs from these users, these grantees could not finance system improvements without imposing a significant financial burden on other users.

An additional option for consideration is to permit grantees to avoid ICR requirements if industrial capacity financing is not sought from the Federal Government.

Under this option, grants would encompass only domestic treatment capacity and industrial users meeting the established flow exemption. In new treatment system construction, the grant amount would be based on a model plant designed to serve a specified domestic population. A grantee would be permitted to treat industrial wastes, but the grantee and the future industrial users would be required to arrange private financing to raise funds for constructing capacity reserved for industry's use.

This option has several advantages to the grantees not found in the current ICR program. Industrial users and grantees would have an ongoing financial interest in the treatment system. Industry, by virtue of its bond obligation, would not withdraw from the treatment system without financial liability, and both the grantee and industry would be concerned with treatment system performance and rehabilitation.

The primary advantage to the government under this approach is that it would provide a strong incentive to contruct cost effective treatment processes that are sized according to needs and include a minimum of speculative treatment capacity. Industry has no incentive to accurately project its treatment needs under the existing ICR program. Currently, industry estimates its needs but often uses less than is constructed for its use. In such cases, ICR is charged only for capacity actually used, and domestic users are required to make payments on excess capacity. Requiring industry to share in treatment system financing will encourage proper sizing of treatment facilities and discourage industrial withdrawal.

In addition, Congress might consider a modification to the program in those instances where Federal financing is sought under conditions established in the ICR program. Under the existing requirements, there is no contractual obligation on the part of an industry to remain with a POTW after construction is complete, even though capacity has been incorporated for industrial use. This is not a sound business practice. For this reason, it may be helpful to consider a requirement that industrial users sign binding contracts guaranteeing their participation and obligation to pay for specified treatment capacity. Such "purchases" should include a shorter recovery period and interest charges.

This would offset the present impact of the ICR program under which grantees and the Federal Government receive deflated dollars. If a 5- or 10-year payback period were adopted, the time interval would more closely reflect time frames used by corporate planners and long-term financing practices now being considered by the financial community. Additionally, the interest charged to industry could be geared to the prevailing rate period on Federal securities.

This option also provides industry and grantees with an incentive to manage the treatment system and effectively plan for growth. Most grantees now acquire growth capacity by expanding or constructing new treatment system. If industry "purchases" capacity, industry and grantees can negotiate process changes that result in reduced capacity requirements for an individual industrial discharger. The excess capacity can be sold by industry to the grantee at a cost proportional to the industrial user's actual investment. The grantee can then use the excess capacity to treat domestic flows or to accomodate a new industrial facility, decreasing new construction requirements.

These then are options our analysis is considering. I have gone into these options in some depth because I realize the importance of the future direction of the ICR program not only to this Committee, but also to the municipalities and industries affected by the implementation of the program. I am sorry that we are not able to submit our final report to the Committee at this time, but I hope this discussion will enhance your understanding of this important issue.

This concludes my prepared statement. I will be happy to answer any questions the Members may have at this time.

Mr. ROBERTS. Please proceed.

Mr. BECK. I would like to introduce the people who are with me today and speak about the roles that they perform within the agency.

Mr. Steve Schatzow, Acting Deputy Assistant Administrator for the Office of Water Planning and Standards; he has prime responsibility for the effluent guidelines program and the 208 program.

Mr. Henry Longest, Deputy Assistant Administrator, and has the chief oversight responsibilities for the construction grant program.

Ms. Myrna Hurd, Division Director primarily responsible for the 208 program, and she has done an outstanding job in that capacity.

And Mr. Jim Smith, Associate Assistant Administrator for the overall office which I head up.

The reauthorization request includes programs covering training, water quality monitoring, State management assistance grants, State areawide planning assistance, clean lakes, and general reauthorization for all nonresearch and water quality programs.

Generally, we are seeking reauthorization for what we consider the normal program functions that are essential to manage those programs. You will note from my testimony that in certain instances, the amounts we are requesting are lower than what is envisioned in H.R. 6667. The reason for that is, given the economic pressures on the budget, we cannot fully fund up to authorization ceilings.

There are some notable exceptions, however, that I should point out to you. We are seeking in section 104(u)(1) $20.7 million. There is no comparable provision in the committee's H.R. 6667. I do not think that this is a problem, because the programs we are seeking authorizations for are consistent with the committee's views on what we should be doing under the act. Some of those moneys would be apportioned to water quality monitoring technical assistance and training, primarily in the area of training States that have accepted delegation to the 205(g) program, the Chesapeake Bay study, and the Great Lakes study. Again, the authorization that we are seeking for that is $20.7 million.

The second area that there is really a significant distinction with regard to H.R. 6667 and the administration's position is that we are not seeking $7 million for training under section 112. The prime reason for this is our perception that Federal funding for training in the water program is a lower priority compared with the other objectives we are trying to carry out in the program. While we felt very strongly in the early days of administering the Clean Water Act that financing training programs represented a prudent use of Federal funds, today $7 million to be used for university undergraduate training and things of the like is a lower priority.

That summarizes my position on the authorization legislation that is before the committee. I would like to spend most of my time talking about what I think is the central issue associated with this reauthorization, which is the industrial cost recovery program.

Since the moratorium of 1977 and 1979, the agency has been trying to develop a position on industrial cost recovery. We have had a contractor study which has been widely distributed, and we have also been trying to gather our thoughts about what the contractor study tells us and where we think the industrial cost recovery program should go.

In all candor—and I think the blame has to be put at my doorstep—the agency has not been as timely as it should have been to come back to this committee with our recommendations.

I assure you that we have given a great deal of thought to the things that we are going to be saying today, and we pledge ourselves to work with the committee over the next few weeks to shape our proposals, and hopefully, lead to some sensible resolution.

But I think that Mr. Clausen's criticism of the agency should more appropriately be addressed to me, and I think that that is very well taken and that we should now try to be much more responsible on this issue.

There is something I should say at the outset before I discuss our proposals and how they relate to the consultant's report. The consultants did come up with recommendations based on assumptions that the agency gave them. We will disagree in our positions today with some of the consultant's recommendations, but in no way should that be interpreted as a pejorative addressed towards that consulting firm. The recommendations EPA is advancing today are based on program elements we felt were appropriate for review which were not in the scope of work or the directions that the Agency had given the consultants. I feel it is important to say that because I do not want the consulting firm in any way to be demeaned by my testimony, and I sincerely mean that.

I think the first area and the major area of change in point of view goes back to our evaluation of what we considered to be the legislative history and intent of industrial cost recovery. The consultant was looking at the issue of parity. My reading of the legislative history and my staff's reading of it suggests that in fact, the issue that Congress was considering was the issue of eliminating preferential subsidies, and subsidies to industry that might benefit from Federal grant money being used for treatment. Out of that will spin some of the central thrusts of our discussion about this issue.

We believe that there are industrial subsidies that come from the grant of Federal funds to a municipal grantee, and thus economic benefits provided to industries, obtaining waste treatment from a municipal treatment plant. First, in certain instances, the industry will not have to develop facilities, because it will get the benefit of treatment, obviously, from a municipal treatment plant. These industries do not have to cover front-end costs fo construction or treatment facilities and can avoid going into the money market and paying interest on loans that might otherwise be used to expand or improve production capacity.

There are some benefits that indirect dischargers gain through administrative and legal cost avoidance. For instance, they do not need to obtain NPDES permits and develop monitoring programs that would be required under our administration of section 402 of the law. Also, The treatment standards that are imposed on an indirect discharger are different than those standards imposed by other sections of our law on direct dischargers.

After capital is invested in treatment facilities, a direct discharger needs to operate and maintain that facility adequately to meet NPDES permits. The indirect discharger is free to concentrate only on production and profits because operation and maintenance is provided by the municipal plant.

EPA's position is there are preferential subsidies that different industries gain which can be addressed by the industrial cost recovery system.

Let me say this on preferential subsidies. They will vary substantially, depending on the nature of the industry. It is very hard to make a blanket determination of what happens, because the industrial pollution control requirements of indirect dischargers and the standards for direct dischargers are different and dependent on receiving water quality. Also, each firm's ability to finance pollution control is unique, but there are real potentials for subsidies occurring.

The second issue that is very important to understand with regard to industrial cost recovery—and really, I think that this is the central issue—is that industrial cost recovery is the one system that requires municipalities to dedicate funds for improving, expanding and replacing their treatment systems. In my judgment, the objective of the Federal sewage treatment construction grants program is to correct treatment needs of municipalities that historically inadquately financed and failed to provide a system by which revenues could be generated prospectively. The revenue system required as a condition for Federal assistance attempts to make sure that the replacement, improvement, and expansion costs for federally funded systems would come from user charges and industrial cost recovery.

Industrial cost recovery provides for the dedication of funds specifically for the purpose of replacing and expanding the facilities being built for municipalities, and I think that is an important thing to consider.

There is one ICR system that I am very familiar with in Passaic Valley, N.J., which generates roughly $6 million each year from industrial users. The ICR revenues are dedicated to replacement and expansion programs. If we were to abolish industrial cost recovery, that facility—and this would repeat itself in many other instances—would lose the benefit of having sizable dedicated funds.

From the standpoint of subsidies, there are subsidies. From the standpoint of dedication of funds, that is the important issue, and there is dedication of funds through the industrial cost recovery system.

We also think, though, that there is the need to build flexibility into the existing program, and we have given a considerable amount of thought to this. We think there is need for flexibility for two reasons. One, publicly owned treatment works differ with regard to facilities requirements, service constraints, management, operational considerations; they are all very different. And the second consideration that we think is necessary to look at when we consider flexibility is that industries differ in financial, physical, and operational characteristics.

We would like to offer to the committee several options that we think deal in a sensible way with some of the ills associated with industrial cost recovery.

The first is that we would suggest the flow exemption of 25,000 gallons per day be increased to 50,000 gallons per day. That exemption would apply to all industrial users. In doing that, we feel that we would exempt roughly 83 percent of the industrial users from ICR payments, while retaining 87 percent of the industrial cost recovery revenues that are being generated.

Obviously, that would have the advantage of decreasing the billing or the administrative requirements faced by grantees while retaining certain revenues for local expansion and replacement programs. We would see this being an exemption that would apply to all municipalities, or all publicly owned treatment works.

We would also urge the consideration of two other methods for municipalities, and thus the industries being served by those municipalities, being exempted from industrial cost recovery. One would be to exempt grantees from industrial cost recovery if there is a financial program in that municipal treatment plant that would meet the future construction and rehabilitation needs of that facility. That could be a way of being exempt from the system.

We would envision that there would have to be some demonstration that ICR would be an insignificant contribution to the revenues of the system. We would also want to be assured that residential users would not pick up a disproportionate share of fixed or variable costs associated with industrial use. We would also want to be assured that the revenues being generated in lieu of industrial cost recovery in some way would be dedicated to the future needs of the system.

This would be a way in which any grantee could be exempted from industrial cost recovery. There would be a case by case determination that would in essence allow us to judge the sufficiency of the grantee's revenue program. We also would envision that this would give the grantees the ability to retain, through the alternative system, revenues that historically might have been generated through industrial cost recovery.

Obviously, this would provide the advantage of giving the grantee flexibility in establishing its own financial arrangement to deal with what was one of the central benefits today of industrial cost recovery, which is retaining certain moneys, or gathering certain moneys for replacement cost. And we would be very open, as we dealt with grantees, the publicly owned treatment works, in terms of the different financial arrangements that they would develop. We would encourage creativity and ways of generating revenues that were fair and reasonable.

The third consideration that we would like to give to the subcommittee would be that if any municipality grantee were willing to forgo Federal moneys for the purposes of providing industrial treatment, we would encourage an exemption from having to develop industrial cost recovery system. We would thus be allowing different municipalities to develop their own relationship with industry users for the purposes of providing systems of treatment. And we think in that instance that there should be an exemption from industrial cost recovery.

That situation would allow the industrial users and municipalities to jointly think of the best system for generating capital and joint treatment without cost recovery imposed by the Federal Government.

So basically, I would like to just reiterate some summary points. We think that the concept of ICR was for the purposes of removing subsidies, and we think in certain instances, there are subsidies.

Our major concern goes to the area of financial integrity of the municipal system. Any changes to industrial cost recovery should be focusing on the implications of finances in a particular municipality and the financial integrity of sewage treatment business whose startup is financed by the Federal Government.

If Congress does decide to keep ICR, we would encourage consideration of ways to make it more flexible and to give us the discretion by which we could reasonably manage ICR without having some of the potential hardships.

Again, I would like to apologize that we have not been more responsive to this committee with regard to our proposals to date, but do assure you that we are now ready to respond with our report, and it will be forthcoming shortly, and to participate very actively over the next few weeks to give whatever insight and guidance the committee seeks from us with regard to resolving this very difficult issue.

Thank you.

Mr. **Roberts**. Thank you, Mr. Beck.

I am impressed with your recommendations, particularly in view of the fact that the other body held up your confirmation for 3 months, just because you administratively kept ICR from going into immediate effect with 100 percent of its full force.

So I am sure some of our friends feel that all we have to do is just pass a bill, and ICR is going to disappear. That is simply not so. We are going to be very fortunate to get out without it being imposed immediately, as you know.

But I am impressed with the recommendations. It seems to me that what you are doing is avoiding any unequal treatment because a lot of people are assuming that we meant what we said; either the industry has put in their pretreatment facilities, or the city has put in a plant adequate to take care of it, and they are making their contribution or some arrangement with the city.

So you propose to let each city have its own ICR, so long as the Federal Government is not in a position to subsidize an individual industry. This, I think, is maybe one of the weaknesses, because in the cities bidding against each other for a new industry, you know some of them are going to say, Well, we will not charge you anything. We will put the tax on everybody else.

Don't you think that is a possibility?

Mr. **Beck**. Well, I think I stated that we would be open to any type of financial arrangement that would assure us that in fact there were adequate revenues to deal with the future needs of that municipal plant. And we have not really closed the door on any alternative. You are correct in stating my position. I think there needs to be a fair financial system in place that imposes cost in proportion to use. We are encouraging a great deal of latitude to try to find those fair revenue systems.

Mr. **Roberts**. Well, how do we avoid unfairness? Some of the industries have already complied with ICR and made arrangements with their local cities. Will your recommendation be fair to those that have already put their money into it, by letting the others off the hook, or are they still—they may be not on the hook to us, but certainly on the hook to the cities.

Mr. **Beck**. Well, I think, in the first instance, we will have reduced a substantial number of industries that are subject to industrial cost recovery by increasing the flow exemption to 50,000 gallons. That, in many instances, is going to limit the hardship that one would be exposed to.

I think in the second instance, we would be asking the municipalities if they have some other system, to demonstrate to us that they have anticipated where the future revenues for system expansion and replacement are going to come from, and if they choose to apportion it in different ways to different industrial users, that is their choice.

I think our concern goes to making sure that there are adequate revenues to expand and replace the facilities and to rehabilitate the facilities and to manage the systems that we have spent billions of dollars across this country constructing. And we are extremely concerned about that.

Mr. **Roberts**. Since your third option—or, since, really, the law requires that ICR be in place only where there is Federal assistance, how would your third option work? Would you still control the plans and specifications and the operation or have some guidelines to see that the effluent meet your requirement? How would you handle it?

Mr. **Beck**. That is correct. We would still envision that the municipality ultimately in its discharge would be meeting the requirements of the act, specifically those under section 301, 302, and 303, and the standards that would be adopted under section 402(a).

What we would be allowing the municipality to do is to specify that part of the plant which is being designed, constructed, and operated for the purposes of serving industry. The Federal Government would not participate in the 75 percent cost share of the industrial position of the treatment plant. The municipality could develop whatever funding and capitalization and operating program for that part of the plant that they want.

That, in my judgment would be additive to the other two modifications that we would encourage.

Mr. **Roberts**. Would you comment briefly on the contractor's finding that changes in the tax laws since 1972 have made it less expensive for industries to treat their own, or have pretreatment, rather than engage in a contract or go into a contract for ICR with the local city?

Mr. **Beck**. I think our view is that there are some truths to what the contractor has said; that tax laws do provide certain benefits to direct dischargers. The contractor talked about industrial development bonds providing some benefits rapid amortization applying in certain instances, and we agree with those.

I think that the contractor fell short in terms of explainng some additional things that go beyond the economic benefits that are derived from tax incentives. For instance, the tax benefit does not provide anything with regard to the continuing operating cost, and we think that that is an important distinction, that a discharger into a municipal plant gets a considerable benefit yearly from not having to pay fixed and variable costs for operation and maintenance.

The second thing that we think is also not accounted for in terms of the disparity goes to, frankly, the different legal standards that are applied. A direct discharger has to meet monitoring requirements periodically, has to revise their permit periodically, and we think that that enters into the cost equation.

I think sludge is another example, that the tax breaks to the direct dischargers do not include benefits with regard to the potential costs associated with disposal of residues. And one of the things that will be occurring, and is occurring right now, but to a greater extent as we go forth with the Resource Conservation and Recovery

Act standards, is that many of the direct dischargers are going to have to have a higher standard of care for the disposal of their sludges, and that is going to be a cost that they are bearing that the indirect discharger does not have to bear, because their discharges obviously end up in municipal sludge, and it becomes the municipalities' problem for dealing with it.

So there are some tax benefits that the consultant appropriately points to, but those tax benefits, in our judgment, do not necessarily make it a completely equal situation.

This is an interesting role for the Environmental Protection Agency, because we are in here saying that there is a cost to our regulations, and I am acknowledging that.

Mr. **Roberts**. I have several other questions that I will submit in writing or talk with you later about, but I have two before I yield to my colleagues.

Have any of the States failed to qualify on 106 funds because they could not maintain their share of the funding at the fiscal year 1972 levels? Do you know that offhand, or do you want to reply in writing?

Mr. **Beck**. I am pretty sure the answer is no; I do not know of any.

Mr. **Clausen**. Thank you, Mr. Chairman.

Mr. Beck, as I am sure you will recall from the Water Quality Commission report, they came to the conclusion that in terms of progress as far as meeting the standards, industry versus municipalities, the information we have is that industry made a significant amount of progress to the point where they were about 85 percent in compliance, and the municipalities were about 35 percent in compliance.

In your view, is that accurate?

Mr. **Beck**. Yes.

Mr. **Clausen**. Why has that occurred?

Mr. **Beck**. Well, I think one of the central reasons is that the municipalities are, in many instances, developing a much more complex treatment facility, and the Federal grant program has been subject to an awful lot of political decisionmaking which influences when one of these municipal treatment systems gets constructed. A POTW is sophisticated with regard to design. There have been problems with regard to the rate of funding, to which we have testified at many points, and the need for Federal funding to adequately meet the objectives of the act. Those have been, in my judgment, the central reasons why there has been some difference in terms of the private sector being able to respond in a timely way versus the public sector.

Mr. **Clausen**. Following that up, data has been developed indicating that roughly 70 percent of our publicly owned treatment works systems are not in compliance—are not in compliance—with the 1977 requirements of the Clean Water Act, and that approximately 50 percent of the POTW's we have built are not operating up to design standards.

Now, we also know, and you have mentioned this, I think, earlier today, that the operation and maintenance promises to be a major problem with the act, as far as the future is concerned.

Now, you indicate a desire on your part and a recommendation to hold back on the training program, and yet the thought has occurred to me that maybe part of the answer here lies in inadequate personnel, and inadequate personnel is a factor for a number of reasons, not the least of which is the adequacy of the pay scale for the people serving in those positions.

So wouldn't more and better-trained people be a key part of solving some of this problem?

Mr. **Beck**. Well, I cannot deny that. You are absolutely right that a good part of what goes into adequately operating and maintaining a plant is well-trained people.

I think that the Agency sees itself dealing with that in two ways. First, under Mr. Longest's operation, we have a major training effort that we do out of our Cincinnati labs, which is primarily directed to operation and maintenance training, and we envision continuing that. And I spoke to that under the need for reauthorizing—or authorizing—$20.7 million in 104(u)(1). We think that in part, some of that money goes to training.

The second thing that we have tried to do with regard to getting up the level of training associated with municipal plants is to encourage the States that seek 205(g) delegation to run the program in lieu of us and be eligible then for the moneys under 205(g); to have training programs as an active component within their state program. And I had the benefit of negotiating three delegation agreements with New York, New Jersey, and Puerto Rico. In each of those agreements, training was a very central program element that I was pushing, to make sure the State perceived it had a role to provide that service for municipalities. I agree with you that one of the central issues leading to compliance is the ability of people who run these very sophisticated pieces of equipment.

Mr. **Clausen**. Well, you indicated in your testimony that the reason for not requesting the reauthorization of that particular provision was that the universities themselves were in place and had the capability of doing this. What do you have in the way of documentary evidence that that is a factual statement?

Mr. **Beck**. Well, in my oral comments, I was careful to say that we felt that the $7 million that was in section 112 was a lower priority with regard to the overall needs that the Agency perceives as needed to administer adequately the requirements of the Clean Water Act. To more directly respond to you, I cannot speak to what training is going on in a variety of universities. I can say that I know of some universities that are providing environmental management training, like the University of Southern California.

Mr. **Clausen**. I wonder if you could shorten up your questions, Mr. Beck, because I have a number of questions. And I am going to ask you very directly, is your position from the EPA point of view different from the OMB's?

Mr. **Beck**. Well, I think that the position of the Agency is consistent with OMB in this regard: if we are dealing with a limited amount of money, then training has to be a low Federal priority.

Mr. **Clausen**. I want to move to Ms. Hurd on one question.

The President's budget request this year for 106 funding is at a level of $47.8 million. This is less than the previous year's request.

For instance, in the fiscal year 1979, $52 million was requested for 106 activities.

In light of the rising costs, the impact of inflation on all of our programs, and what I think is congressional guidance that more and more clean water management responsibilities are to be delegated to the States, to what extent does this $47.8 million figure reflect the true needs of the 106 program—that is, what level of funding do you feel is required to address the 106 program needs?

Ms. **Hurd**. Well, there is no question that inflation is really eating at the State grant assistance program, and we are also increasing the requirements under 106, in that we are now looking at toxics. So we are increasing the needs for monitoring programs, permits, the 404 program, and so forth.

We are in the process right now of working with the States in developing a needs assessment on what we are going to be able to accomplish, and we just are looking at some very preliminary numbers at this point in time. Those numbers indicate that perhaps we need at least one and one-half times the budget. But at the same time, given the problems that we have with the economy, what we are looking at in this needs assessment, working with the States, is what our priorities should be and what we are going to be able to accomplish over the next few years.

Mr. **Clausen**. Mr. Chairman, I have one more question, and then I am going to yield, but because of the fact that there are a number of questions that we have, and out of consideration for the other members of the committee, I am going to ask unanimous consent at this point, which is an usual request of mine, that all members would be permitted to address questions to the witnesses and that they respond in writing, so that we will have a more detailed record.

Mr. **Beck**. We would be happy to.

Mr. **Roberts**. Without objection, so ordered.

[The following was received for the record:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 24, 1980.

Mr. ECKARDT C. BECK,
Assistant Administrator for Water and Hazardous Materials,
U.S. Environmental Protection Agency, Washington, D.C.

DEAR MR. BECK: When you testified March 12, 1980 before the Subcommittee on Water Resources on H.R. 6667, there were a number of questions which were unable to be addressed becasue of time constraints.

I would appreciate it if you would kindly provide the data requested in the following questions so that our hearing record on H.R. 6667 can be made more complete:

1. EPA's version of the Cooper's and Lybrand report states that the cost to grantees to maintain and operate ICR averages about $15,000 per grantee per year and that average ICR revenues per grantee per year are approximately $101,000 (p. 18).

A. Is it true that the $101,000 revenue figure is one that remains constant over time, assuming no changes from initial operating characteristics?

B. Is it true that the $15,000 grantee's incremental cost to administer the ICR system is merely an *initial* cost, keyed to when the plant first goes into operation, and that this cost will in most cases increase with inflation over the years?

C. If the general annual rate of inflation for each of the next thirty years were to be 7 percent, by what annual percentage does EPA estimate that the average grantee's incremental costs to administer its ICR program can be expected to increase each year? What is EPA's estimate if the average annual rate of inflation is 5 percent? 10 percent? 15 percent?

2. Originally (i.e., in 1972), based on assumed eventual grants of $45 billion, it was estimated that total ICR revenues would amount to $4.5-$7.0 billion. It now appears that total ICR revenues will amount to $1.0-$2.0 billion over 30 years. Of this, 50 percent goes to the Federal Treasury, i.e., $500 million-$1 billion. What is the present value (i.e., value in today's dollars) of the amount being returned to the U.S. Treasury, assuming 7 percent inflation for the next 30 years? Assuming 10 percent inflation? Assuming 15 percent inflation?

3. EPA's version of the Coopers & Lybrand report estimates that between $500 million and 1 billion dollars in ICR revenues are to be returned to the Federal Government over 30 years. Does this figure take into account the income tax revenues that the Federal Government is losing because of the need for ICR payments to be made? In other words, does this estimate constitute a "net" amount returned to the Federal Treasury after deducting the increased amount of Federal income taxes that would likely have been paid had there been no ICR requirement? Or is this figure a "gross" amount without any attempt having been made to adjust for lost Federal income tax revenues?

4. If the 25,000 gallon per day flow exemption that is now part of Section 204 were increased to 50,000 gallons per day, it has been said that 83 percent of industry now using municipal treatment systems would not be required to make ICR payments whereas 87 percent of the ICR revenues would be retained. How would these figures change if the flow exemption were to be increased to 75,000 gallons per day? 100,000 gallons per day? 200,000 gallons per day? How would these numbers change if industries which are not presently using municipal waste treatment systems, e.g., newly-constructed plants/industries are also taken into account?

5. What does EPA estimate that it will cost EPA and other Federal agencies (e.g., Department of Justice)—at both the regional and national levels—to administer the ICR program over a 30-year period beginning in 1972? Beginning in 1980? What does EPA estimate that it will cost States with delegation agreements to administer this program?

6. On page 28 of the Coopers & Lybrand report, EPA states that "ICR is inherently cumbersome to administer, and it does not seem probable that it can be further improved or modified without eliminating its original intent." What is it that has caused EPA to change its feelings concerning ICR?

Your response to these questions by April 1, 1980 will be very much appreciated.

With kindest regards,

Sincerely,

DON H. CLAUSEN.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
OFFICE OF WATER AND WASTE MANAGEMENT,
Washington, D.C., April 21, 1980.

Hon. DON H. CLAUSEN,
House of Representatives,
Washington, D.C.

DEAR MR. CLAUSEN: I am pleased to answer your questions on Industrial Cost Recovery (ICR), which you sent to me on March 24, 1980. For your convenience, I have numbered each answer to correspond with the appropriate question.

1. A. Yes. Based on available data from approved ICR systems, Coopers and Lybrand estimated that the average grantee would collect $101,000 annually for 30 years. Assuming no change in the number of industrial users and no change in each industrial user's demand for wastewater treatment services, the ICR payments to each grantee would remain constant, since ICR payments are not adjusted for inflation, and since industrial users are not required to pay interest on the Federal funds used to construct capacity for treatment of industrial process wastewater.

It should be realized that the average figure of $101,000 represents a wide range of amounts (from $3,000 to $3,000,000) which will be recovered by individual grantees. To a large extent, this reflects a wide variety in the number, type, and size of industrial users in the various communities, but it also reflects wide variations in the level of Federal financial assistance extended to individual grantees. For example, a grantee which has received construction grant funds only for minor modifications to an existing treatment system will recover relatively small amounts from its industrial users, whereas a grantee which has received construction grant funds for an entirely new wastewater treatment system will recover relatively large amounts from its industrial users. Since the recovered amounts are directly related to the amount of Federal funds expended to provide treatment capacity for industrial process wastewater, they are different for each grantee.

B. Yes. Coopers and Lybrand estimated that the average grantee's annual cost of administration (primarily accounting and records maintenance costs) would be $15,000. Unlike ICR payments, however, these administrative costs can be expected to increase with inflation, since they are comprised almost entirely of salary costs. Thus, the same annual administrative cost, adjusted for inflation, would be incurred in each year that the ICR system is in effect.

C. We estimate that the annual increase in incremental costs will equal the general annual rate of inflation. Thus, a 7 percent annual inflation rate would result in a 7 percent annual increase in each grantee's incremental costs, as well as a 7 percent decrease in the purchasing power of recovered amounts set aside for future reconstruction. However, we would expect that proper money management by each grantee (the cost of which is included in our estimates of administrative costs) would recoup the annual decrease in purchasing power. If, as is normally the case, there is a positive return on investments (in other words, the rate of return exceeds the rate of inflation), the annual administrative costs could also be recouped.

2. Based on the current definition of an industrial user, the current flow exemption, the current usage of municipal treatment facilities by industrial users, and a total Federal grant program of $45 billion, Coopers and Lybrand estimated total ICR revenues of $1800 million, or an average of $60 million annually over a 30-year recovery period. Thus, the 50 percent share to be returned to the U.S Treasury would total $900 million, or an average of $30 million annually for 30 years. The present value of such payments would be $372 million at 7 percent inflation, $283 million at 10 percent, and $197 million at 15 percent inflation.

3. This figure is a "gross" amount, without any attempt to adjust for assumed losses in Federal income tax revenues. These potential tax revenues would also be lost if industrial users, once relieved of their ICR obligation, invested the additional profits instead of including them in their net taxable income.

4. The 25,000 gallon per day (gpd) exemption exempts an estimated 77 percent of industrial users from the ICR requirement, while resulting in an estimated revenue loss of 9 percent of the ICR revenues which would be collected in the absence of the 25,000 gpd exemption. Raising the exemption to 50,000 gpd would exempt an additional 6 percent of industrial users, for a total exemption of 83 percent of such users. The 17 percent of industrial users required to pay ICR under a 50,000 gpd exemption would constitute a 26 percent reduction from the 23 percent of industrial users required to pay ICR under the 25,000 gpd exemption. Similarly, a 50,000 gpd exemption would result in a revenue loss of 13 percent of the ICR revenues which would be collected in the absence of any exemption.

The 87 percent of such revenues collected under a 50,000 gpd exemption would constitute over 95 percent of the 91 percent of such revenues which would be collected under a 25,000 gpd exemption. In other words, raising the 25,000 gpd exemption to a 50,000 gpd exemption would exempt 26 percent of the industrial users subject to ICR under the present exemption while retaining over 95 percent of the ICR payments expected under the present exemption.

The original study of various exemption levels did not go above the 50,000 gpd level. A study of the impact of higher exemptions would require a labor-intensive search of our files on individual ICR systems, which we are unable to do within the time constraints imposed by your letter. Furthermore, we feel that higher exemptions, while they would reduce the number of industrial users required to pay ICR, and thereby would increase the efficiency of ICR as a revenue system, would for the same reason be seriously inquitable and contrary to the basic principles behind the ICR requirement, in that only a small minority of industrial users would be subject to ICR.

It should also be noted that the flow exemption does not apply to industrial users that discharge toxic or poisonous pollutants which could contaminate sludge, interfere with a sewage treatment process, constitute a hazard or nuisance, or pollute the receiving waters. Thus, regardless of any flow exemption, a number of smaller users would remain subject to ICR.

We would not expect these percentages to change significantly due to the inclusion of additional users; if a change did occur, we would expect it to be positive (increasing the amount of revenues which would be collected), since in the interest of efficiency, industrial plants being constructed today generally take advantage of economies of scale, and therefore tend to have larger flows requiring substantial treatment capacity, which in turn would generate substantial ICR revenues.

5. We estimate that EPA has spent, and will spend, approximately $500,000 per year (at 1980 prices), beginning with Fiscal Year 1973 and ending with the last fiscal year in which grantees will be submitting ICR systems for approval. In addition, we estimate a cost of approximately $100,000 per year (again, at 1980 prices) for thirty

years after the last ICR system is placed in operation. All of these figures are combined totals of costs incurred at EPA Headquarters, EPA regional offices, and state water pollution control agencies whose delegation agreements include the review of ICR systems. We do not expect any other Federal agency to incur significant costs as a result of the ICR requirement, since:

(*a*) ICR applies only to non-governmental users;

(*b*) no other Federal agency participates in the administration of the ICR program; and

(*c*) based on the existing record of grantee compliance with EPA financial requirements, we would not expect the ICR requirement to result in the need for investigation or prosecution by the Department of Justice.

6. There has been no change in our feelings concerning ICR. As stated in your question, "ICR is inherently cumbersome to administer, and it does not seem probable that it can be further improved or modified without eliminating its original intent." It is very important, therefore, to examine the original intent behind the ICR requirement. It was never intended that ICR function primarily as a revenue system. If it were, we would advocate major revisions to the existing requirement, since for many grantees, it is an inefficient revenue system that will return less real income with each passing year, as inflation increases the incremental cost of administration and decreases the purchasing power of ICR revenues. However, the intent of Congress in establishing the ICR requirement was to avoid providing a capital subsidy for the treatment of industrial process wastewater, and ICR must be judged in light of this intent.

I hope that the above information satisfactorily answers your questions pertaining to ICR. I am most willing to work with you and your staff in achieving a prompt resolution of the future of the ICR requirement,

Sincerely yours,

ECKARDT C. BECK,
Assistant Administrator.

Mr. CLAUSEN. Let me just move toward a concern that I have had with regard to the future question of replacement, versus setting up a funding mechanism for O. & M.

Now, as you know, I have been very strong on advancing the concept of innovative technology for alternative wastewater treatment programs, and that has been not only verified but vigorously backed by particularly members of this committee and in particular, the members of the conference, when we went to the Senate.

And this is not anything unique. We started this back in 1972 and then strengthened it in 1977, and so forth.

Now, because of the kind of progress that industry is making—and it seems to me that having attended some of these water pollution abatement conferences where I have observed advancing technology and the capability that the private sector has, as long as they are sure that there is a commitment that will be forthcoming—the thought comes to my mind that while we may concern ourselves about long-range O. & M. and the funding mechanism itself, would we be better advised to take a look at again providing more in the way of incentives in the area of advancing technology, because we may be structuring ourselves for an O. & M. operation for something that will be outdated 10, 15, 20 years ago, as technology advances, because there is a great body of scientific information that is in disagreement, as you know, with the current arrangement, and we are getting a lot of people locked into something here that may or may not have application in 10 or 20 years.

So, while I do not expect you to respond in detail, extemporaneously, I would like to have you provide me with a little bit of an assessment of your feelings in this regard, and then with a more detailed response in writing, if you would, Mr. Beck.

Mr. BECK. I agree. I think that you have stated appropriately the need for us to look at new innovative and alternative technologies that can treat sewage more efficiently and at less cost, and that systems be put in place that can be maintained and operated more effectively, and maybe provide other ancillary benefits.

I agree that as an objective, we need to do that. I think that one of the difficulties we are confronting with regard to administration of our program right now is the issue of how far we go in participating in funding and how far we open the eligibilities, because presently, the administration request is for $3.7 billion. We are in an increasingly tight budget situation. And I think that one of the things that needs to be balanced is how much we invest to replace and build what needs to be done today and how much we participate in the future.

But I absolutely agree that you are right, that the Agency feels strongly about I/A technology; we have tried to aggressively use the authorities that you have given us to encourage innovative and alternative technologies. We have 191 projects that we are presently moving forward with, which I think is a pretty quick response on the part of the Agency.

I would be more than happy to talk with you in greater detail about some ways we might improve that program.

Mr. CLAUSEN. Thank you.

Mr. ROBERTS. The gentleman from Minnesota, Mr. Oberstar.

Mr. OBERSTAR. Thank you, Mr. Chairman.

I must also register great dissatisfaction with this statement and with the inability of EPA to have a statement on so important and so far-reaching an issue, with so little advance opportunity for members of the committee to view it, to study it in detail, and be prepared at the time of the hearing.

That is, frankly, in my judgment inexcuseable, and it has happened over and over again with this committee. It does not lend itself to meaningful hearings to have so little advance preparation.

My understanding is that OMB's policy is precluding—on 208 programs—is precluding analysis of point sources. Now, we feel that point source discharge is an important part of the construction program and is an important part of the advance waste treatment review.

What is EPA's policy on giving continuing support under 208 to agencies which are doing point source work?

Mr. BECK. The position of the Environmental Protection Agency at this time is to limit the funding categories associated with the 208 grant program to those things that are primarily in the area of nonpoint source control.

The reason for that is not to suggest that there is no need to do point source analysis, but to acknowledge that 208 is our only real granting vehicle to deal with nonpoint sources. And we have to give priority to the area of nonpoint sources because of the way that we see nonpoint sources manifesting themselves as an environmental problem.

Mr. OBERSTAR. Well, it is not a matter of priority; it is a matter of not looking at them at all, as I understand the OMB directive.

Mr. BECK. That is correct. And I think the central reason for that——

Mr. OBERSTAR. So you concur in the idea, in the approach of not looking at all at——

Mr. **Beck**. We concur as long as we are looking at appropriations amounts that are ranging from $34 to $37 million, which has been the range over the last 2 years, and that we have to narrow our focus to the areas of urban stormwater, agriculture, and ground water contamination, not because point sources are not a problem; it is just because the resources are so scarce that we have to give priority to nonpoint programs.

Mr. **Oberstar**. How much additional funding is required to include point sources in the 208 program?

Mr. **Beck**. The recently completed WQM needs assessment gives us a rough estimate of how much additional 208 funding would be required—approximately $32 million a year.

This isn't an exact figure, but represents the sum of point source and general planning needs—about $20 million a year—and intensive surveys—about $12 million per year. The States gave us very conservative, hopefully realistic estimates, based primarily on a technology-based approach to point source controls.

Mr. **Oberstar**. A substantial amount of money.

Mr. **Beck**. I imagine it would be substantial, and I should also——

Mr. **Oberstar**. Somebody made a budget judgment that it was substantial. By how much—that is the question. We hear these statements over and over again that we have got to have priorities, but then when it comes to backing up a statement on how those priorities are selected, we see very little to support the decision made.

Mr. **Beck**. Well, Congressman, I do not mean to imply that the Agency is not investing in a variety of point source programs. The 106 grant program deals primarily with point sources. One of the fundamental things that is done for the resources there is to revise the 402(a) permits, BAT permits, for point sources. Under the 205(g) delegation program, which we now have active in 33 States, there is a substantial amount of money that is going to point source control.

I think that the Agency's view is that those vehicles are providing a program for point sources that is well-funded, and that since we had no other resources that could really deal with nonpoint sources, we need to give some direction there.

Mr. **Oberstar**. I would like to turn to the industrial cost recovery question. There are so many other areas—I am greatly disappointed in EPA's position on the clean lakes program. My recollection is that when Congress originally passed this program, we thought in terms of a $100 million program, we thought in terms of cleaning up lakes, not just studying them, not just establishing priorities, and EPA is taking a step backward here, in my judgment, with the clean lakes program—I do not expect you to respond to that, because there are so many things in here that we ought to be touching on, but we just really do not have the time.

But the premise of your analysis of ICR is something I take issue with; that its main purpose was to prevent a subsidy—I am not sure exactly where you refer to this—but at any rate, the point of your approach to the issue is that you want to avoid giving a subsidy to any industry.

When the Congress in 1972, and this committee in particular, looked at industrial cost recovery, it was not a proposal suggested by this committee; it was proposed by the administration at that time. It eventually became a Senate proposal, not a House proposal, and the House looked at it from the standpoint that if we are going to have publicly owned treatment works, we ought to encourage industries to participate in those publicly owned treatment works: (*a*) From the standpoint of the benefits of multiple waste combining to achieve economies of treatment, a combination of many types of wastes and economies of scale; and (*b*) from the standpoint of getting industry to participate in the treatment work so that the cost to a community could be spread out over the whole of that industrial and residential community. Later, there came to be some notion that industry ought to pay a little extra share, and the industrial cost recovery concept, then, was added.

And now, you are concerned—on page 23 you say, "And individual industries clearly find it economically preferable to stay out of the system and develop their own treatment capacity." They are going to continue to find it attractive if they have to pay a penalty, in effect. You are going to drive them out of the system, drive them out of publicly owned treatment works, and shift the costs to residential users and to smaller commercial operations. That is really going to be the effect of a continued ICR program.

Now, how many industrial cost recovery systems are in place already, approved by EPA?

Mr. **Beck**. Eleven hundred.

Mr. **Oberstar**. How much revenue is anticipated or expected to be generated by those systems?

Mr. **Beck**. The revenue from those systems that went into effect prior to the first moratorium was $405,000. The estimated receipts for those ICR systems that would have been in place during this moratorium period is roughly $2 million.

Now, let me explain to you—that is just the Federal share, but let me also explain an important deviation here. That is not the cumulative amount of revenues that would be generated when all the approved systems are in place. These are only the facilities that we have approved systems for that have been operating and thus should have been paying to the Federal Treasury their share of industrial cost recovery.

Mr. **Oberstar**. $2 million, but it could be a significantly higher amount.

Mr. **Beck**. It could be significantly higher. We estimate that—the Coopers and Lybrand report estimates that the number is roughly $26.7 million for the grantees. A comparable amount of money will be going to the Treasury. Now, I want to say something about that number. The consultants acknowledge in their report that it was very difficult for them to get information on the actual amounts of money. My judgment is that the estimate significantly understates the amount of revenues that are generated from industrial cost recovery. Thus in part I think it demonstrates the wisdom of one of the recommendations we are making, that any system can get out of industrial cost recovery, if it can demonstrate the TRC money is insignificant, and they also have another way of generating the revenues.

The reason why I feel so strongly about that is that there are situations that exist where industrial cost recovery is a sizable part of the revenues that come to a municipal system—I gave the example of Passaic Valley. I had the opportunity of working very closely with a facility up in the Adirondacks area, Warren County, where a sizable amount of the flow came from an industry. A blanket wiping out of industrial cost recovery can have a very profound effect on the economics of that system, which is different from the point that you raise, which is an appropriate point, that how that cost gets apportioned between the industry and the residential users is something that in most situations, we would leave open to the municipality, but there just needs to be some way of making sure that there is adequate operation and maintenance and adequate replacement income. Our concern is that a statement from the Congress of the United States of America that says "repeal industrial cost recovery" can have a rather significant and dramatic impact in certain municipal systems, and that should be acknowledged.

Mr. **Oberstar**. Isn't O. & M. going to cover those costs?

Mr. **Beck**. It will not. Operation and maintenance primarily is for the purposes of just running the plant day to day. There are, in municipalities, future needs to replace pumps, to replace equipment, to expand or upgrade. These costs often are not included in the user charge system.

Often in the user charge system that is no accounting for debt retirement. The user charge systems seldom include forecasting of future capital needs to deal with expansions in sewer capabilities which presently are not eligible for construction grant money under our program.

What we are saying is that those variables need to be accounted for, need to be evaluated, and as long as a municipality has an adequate financial system to do that, albeit it may not be our industrial cost recovery system, and they can demonstrate that the revenues from ICR are insignificant, we would be willing to let them out of the system. But we think that there is a certain burden that needs to be carried before that is done, and we think there is a certain danger to eliminate the requirements nationally.

Mr. **Oberstar**. Well, what you are arguing for, then, is conversion of concept of ICR to a surcharge upon the existing charges of the system.

Mr. **Beck**. Well, it would be a system by which revenues would be generated and apportioned to the various users in the system to adequately deal with the future needs.

Mr. **Oberstar**. But if industry determines on their own that they have—if a particular industry or group of industries contemplating or already a part of an ICR or publicly-owned treatment work, rather, determine that on their own they have better technology and the capability of doing their own pretreatment, and perhaps even treatment totally on their own—pull out of a publicly owned treatment work because of the ICR requirement—you are shifting an enormous cost onto a community.

Mr. **Beck**. But you see, Congressman, that is a given right now in a system, and is central to one of my concerns.

Many communities have built and constructed facilities assuming that they are going to have industrial users and industrial cost recovery revenues to help finance that facility. An industry can move out under the current system. If it does, it is going to change dramatically, in certain instances, the municipality's ability to operate and maintain that facility.

The same thing can happen at the national level; if we just had a willy-nilly policy that said everybody is out of industrial cost recovery, it can have, in certain situations, a very dramatic impact.

And what we are saying is that the decision to get out of industrial cost recovery should be based on the merits of the particular system, and that a municipality has to look at its industrial users, has to think of its financing to operate and maintain its treatment system adequately, and has to determine if they are going to get rid of industrial cost recovery, that they have some other way of supplanting the needs, financial needs, to operate, maintain, replace, continue to keep this facility in good working order.

My feeling is that the Congress, in passing the 1972 act, said that this is an act to correct the ills of the past, to get treatment facilities that will adequately treat sewage so that we will not have a water quality problem.

My fear is that unless we build behind that an adequate financing system to continue newly funded systems in perpetuity, that in essence, the issue we will be addressing in 1985 is should we go back out and rebuild these treatment plants because adequate revenues have not been generated at the local level to keep the plants viable.

I think that the Congress needs to speak to that very specifically. My opinion is that we should try to assure that adequate financing systems are part of the municipal plant.

Mr. Oberstar. Well, that is what this whole question is all about. I have one final—not one final question; I have lots of other questions, but I am not going to take anymore time of the other members. But I am very puzzled here about your statement on page 25 that, Increasing the exclusion to 50,000 a day would exempt 83 percent of industry, while retaining 87 percent of the potential ICR revenues. That is a nifty trick. You must be excluding an awful lot of small people with that.

Mr. Beck. That is true, and one of the phenomena that exist in many of the municipalities is that often those that are using systems are low flow type of industries. And it is fortuitous in this regard because by going to a level of 50,000 gallons, we get rid of most of the minor users, but yet retain a sizable amount of the financial capital.

Now, I should say that those numbers came from an in-depth evaluation of 277 facilities that had adopted industrial cost recovery in our region 5 area, which we thought was a very good random sample, and from that, we made certain extrapolations.

But we believe that that is a pretty good indication of what increasing the 50,000 gallons per day will do.

Mr. Oberstar. I would like to have you submit the types of industries that would be excluded under this provision.

[The following was received for the record:]

It is difficult to categorize the industries that would be excluded, since the exclusion realtes to the quantity and quality of wastewater discharged. Small industries in virtully every industrial category would benefit from the exclusion. The dairy industry appears to be the main industry that would benefit, since plants in that industry tend to be small, and thus would qualify for the exemption. However, the high strength of dairy industry discharges would prevent some small-volume users in that industry from benefiting from the exclusion. For example, the cheese processor in Viroqua, Wisconsin, which discharges 15,200 gallons per day of high-strength waste water, would not benefit from this exclusion, since the high strength makes the discharge equivalent to about 150,000 gallons per day of normal domestic wastewater. The Viroqua ICR system is discussed in detail on page 42 of the "Report to Congress, Industrial Cost Recovery, Supplemental Analysis and Recommendations."

Mr. **Clausen**. Would the gentleman yield on that point?

Mr. **Oberstar**. Yes.

Mr. **Clausen**. I had a question that goes to what you are using as a reference point, and I would like to incorporate it in the record, if the gentleman would permit me. It goes like this. If the 25,000 gallon per day flow exemption that is now part of section 204 were increased to 50,000 gallons per day, it is said that 83 percent of the industry would not be required to make ICR payments, whereas 87 percent of the ICR revenues would be retained. But what reference point? Are you talking about zero or 25,000 gallons per day, has been used to make these calculations?

That is, does the 83 percent figure include any portion of industry already exempted under existing law, or does it mean that of those now required by Section 204 to make ICR payments, 83 percent would be exempted under your proposal?

Mr. **Beck**. It is zero. And I believe in the testimony, we did speak to what are the incremental increases from the 25,000 gallons per day to the 50,000 gallons per day. And I believe that we are able to get a 6 percent increase in industry out of the system from going from 25,000 to 50,000 and only lose 4 percent of the revenues. So it is from zero, and we do speak in the testimony of the incremental increases. And it is our intention to submit this study and our evaluations for your consideration.

[The following was received for the record:]

Available data on ICR systems indicates that the flow exemption could be increased to 50,000 gallons per day of equivalent sanitary waste without significantly decreasing the total amount of revenues collected by grantees and returned to the Treasury. Available data idicates that increasing the flow exemption to 50,000 gallons per day would exclude 83 percent of industry now using municipal treatment systems from ICR requirements while retaining 87 percent of the potential ICR revenues.

Based on a review of ICR systems in EPA Region V, increasing the flow exemption could decrease billing and other administaative requirements for grantees without significantly decreasing ICR revenues. Preliminary figures taken from Region V to illustrate various flow exemptions are shown below. The effect of various flow exemptions shown as applies to Region V industries participating in approved ICR systems. The reductions estimated to occur in Region V are then applied to the anticipated national Federal share of ICR revenues to determine the reduction in ICR revenues returned to the Federal Treasury under various flow exemptions.

ESTIMATED 30-YEAR FEDERAL SHARE OF ICR PAYMENTS

[Dollars in millions]

GPD exclusion	Region V		National estimate		National estimate per year (50 percent total ICR collections)
	Number of users	Percent reduction	Federal share	Percent reduction	
0	277	0	$900	0	30
2,500	169	39	891	1	30
5,000	130	53	882	2	29
10,000	100	64	864	4	29
20,000	71	74	828	8	28
25,000	64	77	819	9	27
50,000	46	83	783	13	26

The $900 million Federal share of ICR payments is only is only a rough estimate, based on a cumulative EPA grant amount of $45 billion.

As show in the above table, the 25,000 gallon per day (gpd) exemption exempts an estimated 77 percent of industrial users from the ICR requirement, while resulting in an estimated revenue loss of 9 percent of the ICR revenues which would be collected in the absence of the 25,000 gpd exemption. Rasing the exemption to 50,000 gpd would exempt an additional 6 percent of industrial users, for a total exemption of 83 percent of such users. The 17 percent of industrial users required to pay ICR under a 50,000 gpd exemption would constitute a 26 percent reduction from the 23 percent of industrial users required to pay ICR under the 25,000 gpd exemption.

Similary, a 50,000 gpd exemption would result in an additional revenues loss of 4 percent of the ICR revenues which would be collected in the absence of any exemption, for a total exemption of 13 percent of such revenues. The 87 percent of such revenues collected under a 50,000 gpd exemption would constitute over 95 percent of the 91 percent of such revenues which would be collected under a 25,000 gpd exemption. In other words, raising the 25,000 gpd exemption to a 50,000 gpd exemption would exempt 26 percent of the industrial user subject to ICR under the present exemption while retaining over 95 percent of the ICR payments expected under the present exemption.

Mr. Roberts. The gentleman from Michigan, Mr. Albosta.

Mr. Albosta. Thank you, Mr. Chairman.

I do have some questions, too, Mr. Beck, along the line of the ICR. What differences would it make if grantees were allowed to keep all of the ICR money collected, and number two, how would you envision actually enforcing the requirements that grantees use the ICR money only for treatment works purposes?

Mr. Beck. Well, the answer obviously is that if the amounts of money that are going to be generated from industrial cost recovery is estimated at $26 million—and again, I think that is a very, very low estimate--it would be double that amount, roughly $52, $53 million, that would be retained. And in my conversations with a variety of municipalities, they have indicated that that would make a significant difference in terms of their point of view regarding industrial cost recovery.

Now, let me hasten to add that under the second kind of option that we talked about—they are really not options, they are kind of cumulative—under the second exemption that we talked about, the municipality would have the opportunity of coming up with, in essence, the sequel to industrial cost recovery, or some other financing system by which they can generate revenues. In that situation, we would not envision that there would be any payback provisions to the Federal Government. So it would give them the opportunity of coming up with another system by which they could generate revenues to accomplish it.

Now, with regard to your second question, how is it that the Federal Government would envision doing accounting and auditing of the moneys being generated for industrial cost recovery, what we envision is if we go forward and the moratorium is lifted we will have some regulations and very clear guidelines on what needs to be accounted for and how that would have to be forthcoming to us, and that we would probably do some spot checking of a variety of municipalities based on our knowledge of what we would anticipate would be the level of funds coming back, to make sure that we were getting an adequate repayment of funds.

But for the most part, we would envision that the municipalities would be honorable in this regard, and we do not envision that there would be a major problem of complying with this if, in fact, Congress were not able to agree on a change in ICR and thus, the moratorium was lifted and ICR went into effect.

Mr. **Albosta**. Another question. Would you favor a faster capital recovery cost for industries to speed up our effort to clean up water?

Mr. **Beck**. Well, I do not know—let me address that in a slightly different way, and I hope I am not being completely unresponsive—and maybe some others could help me on this.

I think one of the things that concerns me about industrial cost recovery and the adequacy of it, and why I would encourage municipalities in certain instances to look at other alternative means for financing and operating and maintaining their system, is that there presently is not a requirement or general practice of negotiating a contract when a treatment facility is built, for the purposes of getting guarantees of use or repayment for the industrial share of the project.

In many instances, municipalities build facilities assuming that the industries are going to stay in their system. And 2 years or 3 years or 5 years hence, the industry leaves, and in essence, the municipality is stuck with the problem of having to pay off the debt service and operate and maintain a facility which was in part designed for an industry that no longer is there. That is a hardship.

With regard to return on capital cost recovery into the system, I would, under option 2, encourage municipalities to figure out what they think is the best way by which they might get a capital return on investment, because we are now beginning to see in many facilities around the country—and I think Sacramento is a good example of it—that industries are planning to move out and have, in certain instances, moved out of that facility and stuck the residential users with the cost of paying off the debt service and high fixed operating and maintaining expenses.

We see, under the second exemption that we are talking about, the opportunity for a municipality to optimize and to work with its industry on coming up with the best and most sensible way by which it can recapture revenues.

But I think that the agency feels it can no longer stick its head in the sand on this, it must speak to it and acknowledge that this problem exists out there.

Mr. **Albosta**. Well, I do not think you understood exactly what I meant. What I am talking about is what industry might do in some type of tax reform to clean up the water before they put it into the system, in the capital recovery that they themselves would be able to write off much faster, and do you think, as an agency, that that would speed up cleaning up our water systems.

We know that a lot of plants are putting in too much in terms of toxic substance, and waste substances, into systems that it becomes a difficult thing for that municipality to bear the burden of the cost of building that, so the Federal Government steps in and helps, and then we are trying to get the cost back by charges to them.

Would you be in favor of the government changing its policy in terms of faster tax writeoffs to the industry itself, to speed up the capital costs that they would have, involve?

Mr. **Beck**. I understand that part of the question. Obviously, the response to that would be a response that would be more appropriately coming from the Department of Treasury, because they do speak to policy matters in that regard.

But I can limit myself to a more narrow issue, just from my own personal points of view. I envision that the tax writeoffs that are being provided for direct dischargers should also be provided for indirect dischargers if they have to go to pretreatment, I encourage that. And I also believe that anything that can reasonably be done as it fits into the broader administration policy, to ease the burden for pollution costs, I encourage, because I think it does have the result of expediting cleanup. I think financial investment is a central issue there.

But exactly what is reasonable and what needs to be done and how it might be done is something that more appropriately has to come from the Department of Treasury and other parts of the administration, and it would be inappropriate for me to really say anything beyond what I have said this morning.

Mr. **Albosta**. Indirectly, you are saying, though, that you think that that would speed up, perhaps, cleaning up some of our problems across the country with industrial waste?

Mr. **Beck**. I think financial cost is an issue that is central to time with regard to cleanup. I think it is one function that etches very heavily into an industry's ability to respond to standards.

And in fact, one of the things that we do in the effluent guidelines program is an economic impact analysis on the various industries and balance that against technologies before we set standards. If there were better economic situations in a variety of industry categories, the level of technology might go up, or the rate at which we could revise effluent limitations might go up, so cost and tax incentives are very central to the type of economic analysis that we do do.

Mr. **Albosta**. Thank you, Mr. Chairman. I have no further questions.

[Whereupon, Mr. Oberstar assumed the Chair.]

Mr. **Oberstar**. The gentleman from Arkansas, Mr. Hammerschmidt.

Mr. **Hammerschmidt**. No questions.

Mr. **Oberstar**. The gentleman from Pennsylvania, Mr. Ertel.

Mr. **Ertel**. Mr. Chairman, I will yield my time to the gentlelady from New York. She has a series of questions.

Mr. **Oberstar**. The gentlewoman from New York, Ms. Ferraro.

Ms. **Ferraro**. Thank you, Mr. Chairman.

I have a few that I would like to discuss with Mr. Beck now, but I want to meet him outside on one in my district, and I will do that and not utilize the committee time.

In responding to the chairman's question with reference to the benefits that would accrue to industry to participate in the plan and ICR, you said what would come out would be municipal sludge, and how to get rid of it is their problem. That would seem like a rather flip response to me, because that is a really major problem for a city like New York, and EPA does not seem to be addressing that problem.

What I am referring to specifically—and I want to refer to section 106 of this bill—we have, as you know, in the Port of New York, a real problem with having to dredge for the ships that are coming in. And what ends up happening is as soon as they do that, they find PCB's in there that make it so that they are not able to dump into the ocean. And we have gotten a waiver for it this year.

But we seem to keep getting the problem of running into the environmental situation, and where the PCB's are coming from is up the Hudson River. To me, it would seem sensible to do something about the hot spots up in the Hudson, so that when we get the silt or whatever it is called that comes down, that we do not get them coming down into the Harbor so that we have the problem, then, of where to dump.

Does the EPA have a program that addresses that problem?

Mr. **Beck**. Absolutely.

Ms. **Ferraro**. Where? Is that under 106?

Mr. **Beck**. The administration has offered legislation in Superfund, euphemistically called Superfund, which is intended to give to the agency the ability to be able to respond to situations such as that.

The administration has requested that a fee system be set up which would generate over the next 4 years $1.6 billion. Some of it would be from appropriated amounts, some of it would be through the fee generation system, and it would enable the agency to respond to environmental situations, as you have mentioned, with no limitation in terms of whether it occurs on land or in the air on in the water.

We have testified at numerous occasions to the importance of that legislation and have used as an example of one of the opportunities for it being applied, the PCB situation in the Hudson River, which I am very familiar with. Right now, the Agency is without the ability to go correct that.

We also believe that there are many, many other situations that manifest themselves around this country that need to be corrected, and it is very difficult, and almost impossible, to continue to come back to the Congress for specific, authorizations to deal with something which is a recurring pattern.

And for that reason, we have encouraged a total comprehensive set of legislation to accomplish that. And I urge you all to recognize the need for that legislation so hopefully, we could effectively deal with it.

Mr. **Clausen**. Would the gentlelady yield?

Ms. Ferraro. I would be happy to yield.

Mr. Clausen. I think the gentlelady is probably aware that, just for purposes of making a point, that the committee, as you know, has scheduled hearings on the so-called hazardous materials super fund, around April 15 to 17.

Ms. Ferraro. I was just concerned that it might also fall under the section 106, but you are saying that it does not.

Mr. Beck. The 106 legislation is primarily for the purposes of administering the regulatory program associated with discharges. It is tangentially related, but in an unfortunate way.

The State of New York is delegated the NPDES permit program, and the grant money to support the 106 program was given to the State of New York. The State of New York issued a permit for the General Electric plant which was discharging PCB's. It was unfortunate that that permit allowed, through a generic classification, the discharge of PCB's into the Hudson River because it categorized it under COD standard. And for that reason in part—there were other reasons—there has been, up to 1974, an authorized discharge of PCB's into the Hudson River.

One of the things that we have done since 1974, which was embraced in the 1977 amendments and is central to our budget request and our authorization request, is to strengthen the ability of the permit writers to get in and deal with toxic pollutants and to specifically set limits that will allow or not allow discharges into the waters of the United States, so that situations such as the PCB's in the Hudson River do not occur in the future.

Unfortunately, we have decades of abuses behind us that are going to have to be remedied, and to deal with those abuses, we have been encouraging the Congress—and that includes this committee—to actively consider the administration's proposal which will help alleviate these problems.

Ms. Ferraro. I do have a question specifically about Newtown Creek, which I would like to speak to you about later. Thank you.

Thank you, Mr. Chairman.

Mr. Oberstar. The gentleman from Missouri, Mr. Taylor.

Mr. Taylor. Thank you, Mr. Chairman.

Mr. Beck, the EPA's version of Coopers and Lybrand's report states that the cost of guarantees to maintain and operate the ICR averages about $15,000 per grant a year, and that average ICR revenue per grantee are approximately $101,000 a year.

Isn't it true that the $101,000 revenue figure is one that remains constant over time, assuming no changes in initial operating characteristics?

Mr. Beck. Yes; well, let me just qualify that. The initial cost for setting up the program, the first years, may be a little bit higher than what will happen after it is established, over the next few decades.

The reason for that is that theoretically, you become more efficient; some of the initial costs in setting it up may go away. But for all intents and purposes, the administration cost stays the same.

Mr. Taylor. Well, you think the administration costs, then, will not substantially increase over the years with inflation?

Mr. Beck. No, we do not think so, not a sizable increase. In fact, as I said, in some instances, it may even go down, because in the first years, you have to set up a system by which you are apportioning the costs to the various users, get people familiar with the billing procedures, the payment procedures, and those costs, in essence, go away with time.

Mr. **Taylor**. They are not labor-intensive, then, that would reflect inflationary trends, in your judgment?

Mr. **Beck**. No, I do not think so. But again, that would——

Mr. **Taylor**. Because if they do, it would not take too long at the present inflationary rate for it to be a wash; with $100,000 average grant, the 7-percent inflation rate would wash it out.

Mr. **Beck**. Well, that is true, and unfortunately, what I think is difficult is that we cannot make generalizations about what will be, whether the administrative costs will stay the same, or change, or alter. And really, where that makes more sense is when you look at a particular facility and figure out what they need to do and how they operate and maintain the program. We are, in the proposals that we put forth for consideration today, encouraging that we look at that more specifically, case by case, to look at the administrative costs versus what is recaptued with regard to industrial cost payment from industry, and from that, offer some opportunities to municipalities to structure their system in a variety of ways that may make more sense.

I am acknowledging that as we get down to specific situations, we can find exceptions to whether the costs go up or down, but I think that our proposal speaks to ways that that more accurately can be determined.

Mr. **Taylor**. I thank you very much. I believe that Cooper's and Lybrand's report indicates that they are labor-intensive, and their estimates are that there will be substantial increases in administrative costs. I am happy that you seem to think that that is in error, and I guess you do not agree with their report and findings and their conclusions on that, then; is that true?

Mr. **Beck**. Well, in some situations, I acknowledge that in fact the administrative costs of running ICR may outweigh any revenues that are recaptured by a municipal facility.

Alternatively, just as there are cases in that situation, there are cases where the administrative costs are well offset by the revenues that are returned from industrial cost recovery.

For instance, a municipality that has 40 or 50 percent of its flow coming from one industry which is paying industrial cost recovery into the system would likely not be one where the administrative costs to recapture those revenues are all that great; the revenues would far outweigh what the administrative costs were.

And I also feel a blanket exemption of industrial cost recovery that would affect a municipality in that situation could do grave harm to the financial integrity of that system.

Mr. **Taylor**. Thank you very much

Thank you, Mr. Chairman.

Mr. **Oberstar**. Does the gentleman from California have any further questions?

Mr. **Clausen**. The answer is "Yes;" but out of consideration for all the other witnesses, I think, Mr. Chairman, that I will go to the original request that I made, namely, submit questions to them in writing for their response, because I think we have to be considerate of all the other members.

Mr. OBERSTAR. Without objection, so ordered.

Mr. CLAUSEN. Just one point. I think it should be said to Mr. Beck that the GAO came on strong with a very unfavorable evaluation of the manner in which the 208 program was being administered or managed, and I have to tell you that on the basis of our own evaluation, there have been some significant improvements made as a result of the current management arrangement you have, and I think you should be aware of that.

Mr. BECK. Thank you very much, Congressman. I appreciate that.

Mr. OBERSTAR. Mr. Beck, your statement lacks its usual OMB disclaimer at the end, that, from the standpoint of the Administration program, the Office of Management and Budget advises the Administration that it has no objection to the submission of this statement.

That, of course, suggests that you still do not have your act together down there——

Mr. BECK. I am sorry. This testimony has been cleared by the OMB.

Mr. OBERSTAR. Well, it does not have that statement. And you also say that these are preliminary thoughts, resulting from ongoing evaluations. So I assume from that that you are going to come back to this committee with some final thoughts and some clear-cut statement of a position so we know exactly where you are going to stand, hopefully having had the benefit of other testimony and statements presented at this hearing.

Mr. CLAUSEN. Would the gentleman yield? That was essentially the point that I made in my opening statement, and I do not believe the gentleman was here at that time. So we open and we close with the same position.

Mr. OBERSTAR. Yes; I was here, and I heard the gentleman. I would just like to reinforce that.

Mr. BECK. Well, first, the testimony has been cleared. Second, I think it is our perception that the Agency can best work with both committees at this point that have interest in the industrial cost recovery. And we are offering suggestions to this committee for your consideration, and to a great extent, we think that there are some principles that the Congress needs to speak to, and they go to the principle of, is it parity or is it subsidy. And we gave you some points of view on that.

The second principle which I spoke to that I think is very important is, does the Federal Environmental Protection Agency play a role in participating in the financial integrity of a municipal system. I think that is an important principle that has to be acknowledged and addressed in the issue of industrial cost recovery. And we are raising that and saying that as principle.

Now, we have said that there are some ways, and there may be other ways of dealing with the variety of administrative problems or the cost recovery problems associated with municipal systems, and we have thrown out three basic methods that we think it can be done. And there may be other ways it can be done that would be acceptable to the Congress in totality. But these are our best thoughts at this time in terms of how it might be accomplished. So we have tried to be a little bit flexible as we have approached the Congress, to try to find some consensus, if you will. We have tried to posture ourselves in a less than absolute way and much more as kind of an assisting way. And I think that, quite frankly, that was a very conscious decision in hopes of seeking a resolution here.

Mr. **Oberstar**. Well, that is a very encouraging response, frankly. I am much encouraged that this is a process of conscious thought rather than an abdication of a role and responsibility given to the EPA by this committee, and we look forward to a continuing dialog and openness on your part.

Mr. **Clausen**. Would the gentleman yield?

Mr. **Oberstar**. Yes.

Mr. **Clausen**. What he is really trying to say is they have more in the way of a line of communications with this committee than they have within the confines of the internal workings of the Administration, and they anticipate they can get a solution by working with us rather than they can within the confines of their own Administration.

Mr. **Beck**. I did not think I said that. [Laughter.]

[Mr. Roberts resumes the Chair.]

Mr. **Roberts**. Mr. Beck, we thank you very much for your testimony, and we will be propounding a considerable number of questions both by telephone and in writing.

Mr. **Beck**. Thank you, Mr. Chairman.

Mr. **Roberts**. Thank you very much.

Our next witnesses are from the National Food Processors' Association, Mr. Donald G. Kirk and Mr. H. S. Christiansen. The full text of your prepared statements will appear in the record at this point.

[Statements referred to follow:]

STATEMENT OF DONALD G. KIRK, MANAGER, ENVIRONMENTAL ENGINEERING, HEINZ U.S.A. FOR THE NATIONAL FOOD PROCESSORS' ASSOCIATION

I am Donald G. Kirk, Manager of Environmental Engineering of Heinz U.S.A., a division of H. J. Heinz Company in Pittsburgh, Pennsylvania. I am appearing today on behalf of the National Food Processors' Association and as chairman of its POTW Subcommittee. The National Food Processors' Association, formerly the National Canners Association, has about 530 processing members who pack over 90% of the total national production of canned fruits, vegetables, meats, fish and specialty products.

The National Food Processors' Association agrees with the conclusion of the Environmental Protection Agency's (EPA) January 1979 report to Congress: The industrial cost recovery (ICR) provisions of the Clean Water Act have not achieved their original legislative purposes. It is an unfair penalty on industry. It places at a competitive disadvantage industrial users of POTWs. Its continued implementation could reduce industrial participation in publicly owned treatment works (POTW's)—an unfortunate consequence. For these fundamental reasons, the National Food Processors Association urges repeal of ICR. We, therefore, support Section 2 of H.R. 6667, and commend you, Mr. Chairman, and your colleagues, Mr. Clausen and Mr. Johnson, for introducing this bill.

In taking this position, the members of the National Food Processors Association assure you that they do not object to fair and equitable user charges on all POTW users for actual operation and maintenance costs and for local debt service. We also want to emphasize that repeal of ICR will have no effect whatsoever on water quality or water conservation. ICR is merely a mechanism for partially repaying a federal grant. ICR does not affect POTW capacity, efficiency, or any other aspect of treatment.

BENEFITS OF JOINT INDUSTRY-MUNICIPAL TREATMENT

We have long recognized that joint treatment of municipal sewage and compatible industrial wastewaters should benefit the users of joint treatment facilities and the environment. Congress, by its past actions, has indicated its concurrence with this principle. Representatives Roberts and Clausen included the following sentence in a statement of the views of the House conferees during House debate of H.R. 3199 on December 15, 1977: "It has long been the intent of Congress to encourage participation in publicly-owned treatment works by industry."[1]

Since the adverse effects of ICR may cause less industry participation in POTWs, it is appropriate to summarize potential benefits of joint treatment.

First, joint treatment should provide economies of scale advantageous to all users * * * residential, commercial and industrial. However, many factors often make joint treatment more expensive than self-treatment for industrial participants.

Second, NPDES permit-issuing officials need issue only one permit and review monitoring and compliance reports from only one discharge source. Fewer sources of discharge into a given waterway should make it simpler for regulatory officials to maintain stream quality.

Third, providing necessary pretreatment and paying appropriate user charges would fulfill most of a company's environmental obligations. A company would not have to obtain an NPDES permit or be burdened with possible enforcement actions if it exceeded limitations in the POTW's permit. The experienced POTW staff lessens the need for duplicate efforts by each company.

Fourth, a company would not be required to hire and train employees for operation and maintenance of a treatment system, relying instead upon expertise of municipal personnel.

Ideally, the food processing industry would prefer not to self-treat its wastewaters. If economically sensible, industry would rather participate in a joint treatment system. After all, food industry wastes are compatible with domestic sewage; both are composed of conventional pollutants, primarily Biological Oxygen Demand (BOD) and Total Suspended Solids (TSS) and are readily treatable in the same facility. In some instances due to deficiencies in each waste stream, the combination of food processing industry wastewaters and domestic sewage may actually enhance the biological treatability of both types of waste by providing a more optimum ratio of essential nutrients.

Unfortunately, processing plant location often is the overriding factor in determining whether industry participation in a POTW is optional, impossible, or imperative. Food processing plants in rural areas generally self-treat because there is no nearby POTW of sufficient capacity. Food processing plants in urban areas frequently use a POTW because there is not enough land for construction of self-treatment facilities. Therefore, where ICR creates inequities plants often have no alternative than to pay the higher costs.

CONGRESSIONAL INTENT

The 1977 amendments to the Clean Water Act mandated that the EPA report to Congress on the need for and efficiency of the ICR provision of the Act. In its January 1979 report, EPA stated that Congress created the ICR provision for four specific purposes:

To establish parity of treatment costs between industrial plants which discharge into POTWs and those which self-treat;

To assure the appropriate sizing of POTWs (that is to limit excessive future capacity);

To promote water conservation practices by all POTW users; and

To provide POTW managers with a self-sufficiency fund for future expansion and upgrading of facilities.[2]

PARITY

The Senate Report accompanying the Federal Water Pollution Control Act Amendments of 1972 makes clear that Congress intended to establish parity between industrial users of POTWs and those who provide self-treatment:[3]

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[1] House debate, December 15, 1977, Report on Resolution Providing for Consideration of Conference Report on H.R. 3199, Clean Water Act of 1977, in: "A Legislative History of the Clean Water Act of 1977," Serial No. 95-14, October, 1978, Volume 3, page 311.

[2] EPA Report to Congress, Volume I, Executive Summary, December 1978, EPA Report No. MCD-52, pages 8 and 9.

[3] Report No. 92-414, Page 29, Report of the Committee on Public Works, U.S. Senate, S. 2770, Oct. 28, 1971, (In: "A Legislative History of the Water Pollution Control Act Amendments of 1972," Serial No. 93-1, Jan. 1972, Vol. 2, page 1447.

"The bill would deal with industrial pollutants in this way: each industrial user of a public system would pay a charge that would include not only that share of operating and maintenance costs allocable to such user but which would also be sufficient to recover that portion of the Federal share of the capital cost of the facility allocable to such user. That portion of the Federal share of the capital cost allocable to each industrial user would be returned to the federal treasury.

"The committee believes that this approach to the issue of industrial use of public facilities appeared to the committee to be the most reasonable and equitable one that can be devised. Any scheme that did not provide for full recovery of the Federal share of capital costs allocable to industrial users would clearly constitute a Federal subsidy of private industry and, more particularly, of those industries that were so situated as to make use of public facilities and industries providing wastes that are compatible with public treatment systems. Any other approach would discriminate unfairly against those industries which, for whatever reason, were unable to utilize public systems."

The Senate report makes clear that Congress believed that if industrial users did not pay a proportionate share of POTW construction costs they would in effect be receiving a federal subsidy and their wastewater treatment costs would be lower than their competitors who constructed, operated and maintained their own wastewater treatment facilities. It was believed that without ICR, direct discharge plants would be placed at a competitive disadvantage compared with plants utilizing municipal wastewater treatment facilities.

In fact, rather than establishing parity, ICR often creates disparity. Industrial users of POTWs, who were perceived as gaining an economic advantage, actually are at a competitive disadvantage due to the high costs of participation in joint treatment systems. Addition of ICR charges places them at an even greater disadvantage, which is obviously not in accord with the original intent of Congress.

When ICR was written into the 1972 Water Pollution Control Act, Congress did not envision all the extra costs the law would impose on municipal officials in obtaining federal grants, in complying with its special planning and contracting provisions and in constructing, operating, and maintaining their facilities. When all of these costs besides ICR are considered, it frequently costs industry more to participate in POTWs than to self-treat, which offers some tax advantages for construction not available to POTW users. These and other factors are discussed below.

REASONS FOR LACK OF PARITY

There are several reasons why the costs to industrial users for use of POTWs constructed with Federal grant funds under the Clean Water Act often equal to exceed costs of self treatment. In many cases this would be true even if the ICR charge were omitted. The reasons are:

1. *Administrative requirements.*—EPA's grant regulations impose many administrative requirements on POTW officials that industrial direct discharge plants do not have to meet. These include complicated and expensive procedures to:

(*a*) Attain a high ranking on the state priority list for federal grants;

(*b*) Prepare applications for federal POTW construction grants;

(*c*) Administer grants received; and

(*d*) Develop, implement and maintain user charge systems and ICR programs.

2. *Capital costs.*—POTWs generally cost more to construct than equivalent industrial facilities, particularly for treatment of conventional pollutants. Reasons for the higher POTW construction costs include:

(*a*) POTWs usually provide relatively sophisticated treatment, while industrial treatment systems, especially for seasonal food processing wastes, usually can be of a simpler design which is less expensive to build and operate but which achieves the same final degree of treatment. For example, the Best Practicable Technology (BPT) effluent guidelines for fruit and vegetable processing subcategories are based upon use of aerated lagoons rather than activated sludge, which is the most common technology choice of POTWs to achieve secondary treatment.[4] EPA in developing its fruit and vegetable effluent guidelines, estimated that the costs to a tomato processor for activated sludge treatment would have been more than three times greater than for aerated lagoon treatment.[5]

(*b*) POTWs generally incur costs that are not necessary for industrial facilities, including costs to:

(i) Improve the POTWs' appearance;

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[4] Federal Register, April 16, 1976, page 16274, col. 3, para. 2 Final Effluent Guidelines for Phase II Fruits and Vegetables.

[5] Federal Register, April 16, 1976, page 16276, col. 3, para. 1, Final Effluent Guidelines for Phase II Fruits and Vegetables.

(ii) Achieve disinfection, which is generally unnecessary for industrial wastewaters;

(iii) Construct a facility with an especially long useful life (20 years or more);

(iv) Install back-up equipment required by EPA grant regulations; and

(v) Construct long interceptor sewers to combine all community wastes.

3. *Investment tax credits and industrial development bonds.*—In its report to Congress (page 6), EPA stated that the ICR provisions of the Clean Water Act "* * * are not effective in accomplishing their legislative purposes." EPA based its conclusion on recent changes in tax laws which provide for accelerated depreciation of pollution control equipment, investment tax credits for capital expenditures, and the availability of tax free industrial development bonds to finance self-treatment facilities.

4. *Age of the POTW facilities.*—The date of funding of a POTW can have a significant effect on costs for industrial participation in a POTW.

(*a*) An additional source disparity (in this case between various categories of POTW users) is the fact that those companies which presently participate in POTWs constructed or designed and funded without Federal grants under PL 92-500 are not subject to ICR provisions.

(*b*) Inflation is also a factor. The great majority of industrial direct dischargers complied with the law and met BPT treatment standards during or before the 1977 deadline when construction costs were lower. But more than sixty percent of the municipalities did not achieve the required secondary treatment by that date. The cost for secondary treatment by POTWs that have not yet complied with 1977 guidelines, or who have only recently complied, will be much higher due to inflation in recent years.

EFFECT OF LACK OF PARITY

The most serious effect of ICR is on the ability of companies to effectively compete. The EPA report to Congress notes that "For most industrial users of POTWs, ICR is a slight additional financial burden (about 10 to 15 percent of the sewer use charge)." A recent survey of NFPA members indicated that a significantly larger percentage of total POTW charges are or will be due to ICR requirements. Rather than 10-15 percent, ICR will account for more than 25 percent of the total treatment charges of our members who participate in POTWs subject to ICR requirements. Although total cost of POTW treatment is a significant problem, this additional cost (whether 10 or 25 percent) of industrial use of POTWs especially concerns NFPA members, because it assumes the nature of an administrative penalty. Repeal of ICR would end the current penalty for use of POTWs and help restore the parity that Congress sought to establish by including ICR in the 1972 Act.

The impact of the cost of the ICR provision on our industry is more significant than might be expected. A study conducted by Touche Ross for the National Food Processors Association found that over a recent ten-year period the average annual pre-tax profit for a sampling of NFPA members was less than 4 percent.[6] Also in such a highly competitive industry as canned and preserved seafoods and fruit and vegetable processing, an individual company does not control the price of its products. Rather, the price is determined by supply and demand for the commodity in the marketplace. A food processor faced with increased sewage treatment costs generally is unable to pass those costs on to consumers.

EXPLANATION FOR CONTINUED INDUSTRY PARTICIPATION IN POTW'S

In the face of these impacts on industrial POTW users, it could be expected that most companies would now self-treat rather than participate in joint treatment. We believe that informed management seeking a site for a new processing plant would opt for self-treatment and locate accordingly. However, existing companies cannot freely exercise such a choice for the following reasons:

1. When the Federal Water Pollution Control Act was passed in 1972, most food processing plants already had decided either to participate in a POTW or to self-treat. Once that decision had been made, companies either invested in equipment necessary for self-treatment or budgeted capital required to participate with POTW. Some companies recently have had to reexamine their 1972 treatment choice.

2. Today's major inducements to opt for self-treatment are investment tax credits and accelerated depreciations as well as availability of industrial development bonds. However, few food processors have taken advantage of these tax incentives

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[6] Touche Ross & Co., Canning Industry Profitability Review, 1968-1977, February 14, 1979, Table IX.

because management has not been fully aware of the provisions or because a company was committed to a course of treatment before the tax laws were changed.

3. Once a company commits to POTW participation or to share in a POTW expansion or upgrading, future consideration of self-treatment is often biased by a long term capital obligation which may be required whether or not the company continues to use the POTW. Thus a company can be faced with unexpectedly high POTW costs but not be able to afford to abandon the POTW in favor of self-treatment. Even if a company is not under contract for future capital cost payments to a POTW, there are various ways local government can discourage an industrial user's withdrawal from a joint treatment system if continued plant operation in the community is desired.

4. Independent of financial considerations, a decision to self-treat or joint-treat largely is determined by plant location. Many companies participate in a POTW under adverse economic conditions simply because no space is available to construct a self-treatment facility.

CAPACITY AND WATER CONSERVATION

In its report to Congress, EPA cited capacity and water conservation as issues which contributed to enactment of ICR. We concur with EPA's conclusion that ICR is not effective in controlling POTW size or in conserving water. Higher operation and maintenance charges, escalating water costs, and declining water supplies are the incentives for stringent water conservation efforts. A recent NFPA survey revealed that more than 75 percent of its members who participate in POTWs have active water conservation programs to reduce their wastewater volume. Reported flow reductions range from 5–95 percent with an average reduction above 35 percent. These measures would be undertaken irrespective of ICR charges.

SELF-SUFFICIENCY

Another intent of ICR was to create a fund for local municipalities to finance reconstruction of POTWs at the end of useful life. However, EPA's report to Congress states that ICR "would not make a significant contribution toward the grantees' financial capability to meet the costs (when adjusted for inflation in the ensuing recovery period) for future expansion and upgrading of their wastewater treatment works."

In addition to its ineffectiveness for such a purpose, ICR also is an unfair approach to employ in creating such reserves. The concept of a replacement fund for financing public works is fundamentally flawed.

The size of the "self-sufficiency fund" for POTWs with ICR varies greatly depending upon the extent of industrial participation in the treatment works. Therefore, it is unrelated to actual needs of a particular POTW. Communities most in need of replacement funds are likely to be those with no industry involvement and, hence, no ICR-generated funds.

Providing for future financing of treatment facilities from monies raised over a long period of time results in industrial users paying simultaneously for both original facilities and replacement facilities. A company that must pay into an ICR reserve fund may not be in operation at that location to benefit from the fund in later years. Conversely, industries that join the POTW system at a later date get the "free ride" which Congress intended to avoid.

Proponents assume that such a replacement fund will allow municipalities to meet future sewage treatment needs without additional federal funds. As a matter of principle, POTWs should be financed in the same manner as other public utilities, such as power and water supplies. Public works and utilities are financed most fairly by bonded indebtedness which links most closely those who pay for a service and those who benefit from it. Using this system of financing, the bonds are paid off by the users concurrently with their use charges, as part of their unit costs.

The view that there need be extensive replacement of facilities at the end of a POTW's "useful life" is unrealistic. Treatment works always should be kept in satisfactory structural and functional condition through replacements and repairs paid for from maintenance funds. "Useful life" is a term more appropriately used for accounting purposes than as an indicator of the actual functional life of the structural and mechanical components of the facility. Treatment works usually operate over several generations without total replacement. Maintaining the plant in a satisfactory condition is in fact required to insure continued compliance with discharge limitations.

ICR is perceived as an additional tax on industry. Companies pay federal taxes at a higher rate than most citizens. Use of a federally funded POTW benefits both local citizens and industrial participants. Although both contributed to the federal coffers from which the construction funds were obtained, only the company is required to repay the government.

Use of 40 percent of ICR payments to establish a "self-sufficiency fund" is contrary to good business practice. It penalizes industry by sequestering capital in an account earning modest interest. A well managed company normally invests in facilities that increase profitability and productivity, earning a combined return far beyond that of any POTW fund. Thus, a company would be better able to meet its environmental obligations if the company was allowed to make payments as needed, rather than making ICR payments in advance.

ICR REVENUES TO FEDERAL TREASURY

Representative Ray Roberts at an earlier hearing on ICR asked EPA, "How much revenue will this (ICR) program produce for local, State and Federal governments * * *" EPA in its report to Congress (page 21) estimated revenues over a 30-year period of $0.5-1.0 billion each for the Federal treasury and for local governments.

Unfortunately, EPA's report did not analyze the effect of the return of one half of all ICR payments to the Federal government on the total income received by the Treasury Department. The report overlooked the fact that in calculating the company's Federal and State income tax the ICR Payment would be claimed as a business expense. Since most companies are in the 46 percent income tax bracket, the Federal treasury will net only 4 percent of the ICR Payment, not the full amount as indicated by EPA in its report to Congress.

To illustrate, a company pays $100,000 as its total ICR payment for one year. Of this $50,000 goes to the Federal treasury. The other $50,000 is retained by the local community for future reconstruction of the treatment works and for other community purposes.

When the company calculates its income taxes it deducts the total $100,000 ICR payment as a cost of doing business. Assuming the profit level of the company is reduced by $100,000 and that the tax rate of the company is 46 percent, the Federal treasury loses $46,000 in income tax revenue.

The company thus pays $50,000 to the Federal treasury in ICR payments, but the Federal treasury loses $46,000 in income taxes. The net result is a $4,000 payment to the Federal treasury; a small return considering all of the special requirements governing ICR.

Even the State governments, which receive no portion of the ICR payments, experience a loss of revenue through industry deduction of the total ICR payments from reportable income.

CONCLUSION

The National Food Processors Association believes that for the previously discussed reasons, most of which could not have been foreseen in 1972, retention of the ICR Provision is no longer necessary or desirable. We, therefore, support section 2 of H.R. 6667, which repeals the ICR provisions of the Federal Water Pollution Control Act of 1972.

We appreciate this opportunity to submit these comments on behalf of the National Food Processors Association.

STATEMENT OF THE AMERICAN FROZEN FOOD INSTITUTE BY H. S. CHRISTIANSEN, DIRECTOR OF ENERGY AND ENVIRONMENTAL AFFAIRS, CARNATION CO.

Mr. Chairman, my name is H. S. Christiansen. I am Director of Energy and Environmental Affairs for the Carnation Company of Los Angeles, California. I am testifying today on behalf of the American Frozen Food Institute, a non-profit trade association representing companies which are responsible for 90 percent of the total frozen fruit and vegetable processing production in the United States as well as a substantial portion of the production of other frozen foods.

AFFI believes that the Industrial Cost Recovery provisions of the Clean Water Act should be repealled and therefore supports passage of section 2 of H.R. 6667.

In 1972, Congress enacted the ICR Program so as to avoid providing "a Federal subsidy" to industrial sources that discharge into publicly owned treatment works.

However, changes in the tax laws and regulations since 1972 have eliminated the "unfair subsidy" problem as a concern. Indeed, ICR must be repealed to place indirect dischargers on roughly the same footing as direct dischargers with respect to the treatment of capital expenditures for pollution control equipment by the Federal government. This fact is reflected in the conclusion to EPA's report on ICR that, "for some medium or large industries * * * it is less expensive in the long run to selftreat than to pay user charges and the local debt service." EPA's report is a clear warning to Congress that its goal of encouraging joint industrial-municipal treatment is in jeopardy if changes are not made in the Clean Water Act to reduce the cost of joint treatment. Indeed, Carnation's experience with POTWs bears this point out. With the adoption of the 1972 Federal Water Pollution Control Act, it was Carnation's policy to support joint industry-municipal POTW treatment wherever possible rather than to install our own treatment facilities. First, we believed that we would benefit from the economies of scale in a POTW. Second, we are in the food processing business, not the waste treatment business. Since 1972 we have had a number of plants join in a POTW. However, our experience with these POTWs has been such that Carnation has now reversed its earlier policy and will generally install our own treatment facilities wherever possible. The major reasons for this change are the cost factors including the potential cost of ICR. Repeal of ICR is one way to reduce such costs without endangering the environment or the economic viability of POTWs.

It is also clear from EPA's ICR report that existing ICR Provisions do not serve any other useful function.

The report concludes that ICR has not influenced the capacity decisions made in planning new POTWs. Clearly the construction of excess capacity by POTWs is a problem. ICR is not the answer to this problem because industry's interest in avoiding the construction of excess capacity does not always translate into an ability to influence the design of the local POTW.

EPA's ICR study also concluded that ICR Payments do not have a significant impact on water conservation. Water conservation efforts are not related to ICR costs as much as they are to higher user chargers and increased water rates. AFFI would also like to point out that many of its members are located in geographical areas where local water conditions compel industry to implement effective water conservation programs. Many of our members have instituted strict water conservation measures either in processing modification or by adopting alternate means of effluent disposal such as direct land application. Continuation of the ICR program cannot, therefore, be justified in terms of its encouraging water conservation.

The ICR revenue gathered by municipalities, even when all POTW systems authorized by the Clean Water Act are complete, will not provide a significant pool of funds to finance future POTW construction. EPA's study has estimated that the total revenue recovered will be $1.6 million of the $45 billion currently designated for the construction grants program. Further, AFFI members, who are often seasonal users of POTWs, contributed cost information to the ICR study showing that many frozen food plants could expect to incur substantial ICR charges if ICR were fully enacted. Such payments would represent a significant portion of these plants' revenues, in many cases. They do not, however, in any way improve the plants' effluent or the environment. AFFI suggests that these funds would better be spent as investment capital to expand job opportunities or to improve waste treatment technology.

Finally it is clear that in many instances the ICR program is simply not cost-effective for the local POTW to administer. The administrative burden and cost far outweigh the revenue collected.

In conclusion, AFFI endorses the findings of EPA's ICR report. Industrial cost recovery has not fulfilled its legislative intent and should be abolished.

Mr. **Roberts**. Please proceed.

TESTIMONY OF DONALD G. KIRK, MANAGER OF ENVIRONMENTAL ENGINEERING, HEINZ U.S.A., DIVISION OF H. J. HEINZ CO., AND CHAIRMAN, SUBCOMMITTEE ON PUBLICLY OWNED TREATMENT WORKS; AND H. S. CHRISTIANSEN, DIRECTOR OF ENERGY AND ENVIRONMENTAL AFFAIRS, CARNATION CO., ACCOMPANIED BY JACK L. COOPER, CONSULTANT, NATIONAL FOOD PROCESSORS' ASSOCIATION

Mr. **Kirk**. Thank you, Mr. Chairman.

Mr. Chairman, and subcommittee members, I am Donald G. Kirk, manager of environmental engineering for Heinz U.S.A., Division of the H. J. Heinz Co.

I am appearing today on behalf of the National Food Processors' Association and as chairman of its POTW subcommittee.

Immediately on my right is Mr. Jack L. Cooper, who serves as a consultant to the National Food Processors' Association. I would like to have him here to participate in answering any questions that you might have.

On my left is Mr. H. S. Christiansen, director of Energy and Environmental Affairs for the Carnation Co., and he is here representing the American Frozen Food Institute.

We agree with the conclusion of the Environmental Protection Agency's January 1979 report to Congress, that the industrial cost recovery provisions of the Clean Water Act have not achieved their original legislative purposes.

ICR penalizes industrial users of POTW's and, if continued, could reduce industrial participation in publicly owned treatment works.

We believe that joint industry-municipal treatment should be encouraged because of important management, operational, and regulatory efficiencies found in combined systems. Congress, by its past actions, has indicated its concurrence with this principle.

Therefore, the National Food Processors' Association urges repeal of industrial cost recovery. We support section 2 of H.R. 6667 and commend you, Mr. Chairman, and your colleagues, Congressman Clausen and Congressman Johnson, for introducing this bill.

In taking this position, we emphasize that ICR is merely a mechanism for repaying a Federal grant and will have no effect on water quality.

In its January 1979 report, EPA cited four specific purposes for which Congress created the ICR provisions: to establish parity, to assure the appropriate sizing of POTW's, to promote water conservation, and to create a self-sufficiency fund.

We concur with EPA's conclusion that ICR has no significant effect on POTW size or on water conservation. The issues of parity and self-sufficiency are more complex and must be considered in more detail.

Unfortunately, rather than establishing parity between industrial users of POTW's and those who provide self-treatment, ICR often creates disparity.

When ICR was created, Congress did not envision all of the extra costs required to construct and operate a POTW. The result, even without ICR, is that it frequently costs industry more to participate in POTW's than to self-treat. There are several reasons for this.

First, EPA's grant regulations impose many adminstrative requirements on POTW officials that industrial direct dischargers do not have to meet.

Second, POTW's generally cost more to construct than equivalent industrial facilities.

Third, is the availability of investment tax credits, rapid depreciation for tax purposes, and industrial development bonds to companies which decide to self-treat. Such methods of writeoff and tax-free bonding were not available when ICR was mandated.

A fourth reason is the age of the POTW. Facilities constructed prior to 1972 were not eligible for Public Law 92-500 grants, and were therefore not subject to ICR provisions. Those constructed very recently will be more costly than earlier facilities, because of the recent high rate of inflation. This creates a lack of parity between companies using POTW's.

These four factors limit the ability of companies to effectively compete, and we maintain that this is the most negative effect of the ICR provisions.

Although the total cost of POTW treatment, excluding ICR, is a significant problem to the food processing industry, the additional cost for ICR especially concerns National Food Processors' Association members, since it assumes the nature of an administrative penalty.

In the face of these adversities, it is surprising that a large number of companies continue to utilize POTW's. Many of these companies had made decisions prior to the establishment of ICR, or had not been able to utilize the recent tax advantages, and are financially committed to their choices. Others are restricted by location.

EPA concluded, and we agree, that ICR would not create a fund sufficient for local municipalities to reconstruct POTW's at the end of their useful life.

In addition, the net funds returned to the Federal Treasury would be insignificant because ICR payments will result in an equal reduction in taxable income.

We believe that locally funded public works and utilities are financed most fairly by bonded indebtedness, which links most closely those who pay for service and those who benefit from it.

Finally, ICR is perceived as an additional tax on industry. Although both companies and citizens pay Federal taxes to support the grant program, only the companies are required to repay the Government.

The National Food Processors' Association believes that for the reasons which we have discussed, most of which could not have been foreseen in 1972, retention of the ICR provision is no longer necessary or desirable.

We therefore support section 2 of H.R. 6667, which will repeal the ICR provisions of the Federal Water Pollution Control Act.

Mr. Chairman, may I have your permission to make a brief comment on the testimony of EPA by Mr. Beck?

Mr. ROBERTS. Certainly.

Mr. KIRK. We believe that EPA's suggested alternatives to ICR are perhaps useful alternatives from the standpoint of the municipalities. They are apparently geared to reduce the administrative burdens borne by those municipalities.

We question whether in actual operation, that reduction of administrative burden will in fact occur. However, we find that from an industrial point of view, it appears that EPA is still going to require some sort of payment in advance for reconstruction of the facility many, many years in the future. So it looks as if the money will have to still somehow come out of the pockets of industry, whether it is through an ICR charge or whether it is through some kind of a prearranged future funding procedure set up by the municipality.

Therefore, the only benefit that we can see to industry in all of these alternatives is the change in the exclusion from 25,000 gallons a day to 50,000 gallons a day, and I think in the questioning, it was brought out that that would have a very small influence on a very small number of companies. And in industries like ours, where large quantities of water are used, the effect may be almost insignificant.

Mr. Chairman, I appreciate this opportunity to submit these comments on behalf of the members of the National Food Processors' Association, and would be pleased to answer any questions you may have.

Thank you.

Mr. ROBERTS. Thank you very much.

Mr. Christiansen.

Mr. CHRISTIANSEN. Mr. Chairman, my name is H. S. Christiansen. I am director of Environmental Affairs and Energy for Carnation Co., and as such, have had direct involvement in several federally funded POTW projects, also some projects where we treated our own waste water.

I am testifying today in behalf of the National Frozen Food Institute, a nonprofit trade association representing companies which are responsible for 90 percent of the total frozen fruit and vegetable processing and production in the United States.

I will not repeat many of our arguments which are the same as Mr. Kirk's, but they will be in the written report.

AFFI believes the industrial cost recovery provisions of the Clean Water Act should be repealed. In 1972, the Congress enacted the ICR program to avoid providing a Federal subsidy to industrial sources that discharged into publicly owned treatment works.

The EPA study on ICR states, "For some medium or large industries, it is less expensive in the long run to self-treat than to pay user charges and the local debt service."

Carnation's experience with POTW's bears this point out. With the adoption of the 1972 act, it was our policy to support joint industry/municipal POTW treatment wherever possible, rather than install our own treatment facilities.

First, we believed we would benefit from the economies of scale, and second, we are in the food processing business, and not interested in getting into the waste treatment business.

Our logic was the same as what you heard earlier today. But since 1972, we have had a number of plants participate in federally funded POTW projects. Our experience with these projects has been such that we have now reversed our earlier policy and will generally install our own treatment facilities wherever possible.

In that consideration, we have experience with operation and maintenance costs of our own facilities, as well as the POTW. And the trend in our experience is that the division is getting wider; the POTW costs are increasing at a faster rate than those which we treat ourselves.

It is also clear from EPA's ICR study that existing ICR provisions do not serve any other useful function. The study concludes that ICR has not influenced the capacity decisions made in planning new POTW's. Clearly, construction of excess capacity in POTW's is a problem.

ICR is not the answer to this problem, because industry's interest in avoiding construction of excess capacity does not always translate into an ability to influence the design of the local POTW.

I have mentioned in my experience attempts to avoid design for excess capacity is usually one of frustration. EPA's ICR study also concluded that ICR payments do not have a significant impact on water conservation. Water conservation efforts are not related to ICR costs as much as they are to higher user charges and increased water rates.

The ICR revenue gathered by municipalities, even when all POTW systems authorized by the Clean Water Act are complete, will not provide a sufficient pool of funds to finance future POTW construction.

EPA's study estimated total revenue recovered will be $1.6 million of the $45 billion currently designated for construction of the grants program.

Many frozen food plants expect to incur substantial ICR charges. Such payments would represent a significant portion of these plants' revenues and could better be used as investment capital to expand job opportunities or to improve waste treatment technology.

Finally, it is clear that in many instances, the ICR program is simply not cost-effective for the local POTW to administer. The administrative burden and cost far outweigh the revenue collected.

In conclusion, AFFI endorses the findings of EPA's ICR study. Industrial cost recovery has not fulfilled its legislative intent, and therefore, we feel should be abolished.

Thank you.

Mr. ROBERTS. Thank you very much, gentlemen.

Mr. Kirk, what data do you have to show that food plants are actually choosing to self-treat instead of joining a city plant? How many of them do you think are now self-treating?

Maybe we should make the law make you self-treat, because little city A cannot afford to treat one of your big plants, and you do not expect them to.

Mr. KIRK. May I respond to your last comment first, and that is, many plants are located in areas where they could not self-treat. They would have to physically pick the plant up and move it, because there simply is not room in the area to——

Mr. ROBERTS. Well, then, they ought to pay something to that city, you agree, for treatment.

Mr. KIRK. Absolutely. We have no objection whatsoever to pay our share of the local capital indebtedness of the community and also our share of the operating and maintenance charges which they incur in our behalf.

Mr. ROBERTS. So, I think it was option No. 2 that EPA submitted, would fit your case better than any other, anything we can do.

I want to caution again, even though I am the author of this bill, that we started out thinking we might be able to repeal cost recovery, but somebody has got to pay the bill. The other body is not about to allow cost recovery to go into maybe not even a moratorium this time. We have been able to get it by it, but as you heard me say, they held up Mr. Beck's confirmation just because he stalled it off for 3 months, until we could get a bill out.

Mr. KIRK. I would like to make a comment on that, if I could. I believe that if EPA's position were interpreted to allow a community to show fiscal responsibility, I believe then that we would be in favor of it. But if it requires a fund to be sitting there, collecting some low rate of interest until sometime 30 or 40 years later when it is required, this is contrary to good industrial management of money, and we would tend to resist that.

Mr. **Roberts**. Have any of your plants contracted for capacity under a city plant and then pulled out for a good reason, or some reason?

Mr. **Kirk**. I do not know any that have pulled out. My own company has contracted in at least one instance, and we have looked at the charges which now have been levied against us, and looked at the expected charges on which we made the decision, which we wish we had not made the decision. We are even now considering still pulling out of that system. However, we have signed the contract for 25 years to pay back the local indebtedness, and we do not believe that we could justify going to a self-treat system and still have that indebtedness hanging over our heads.

And since we comprise about 60 percent of the total load on that treatment system, we do not believe that the municipality would see fit to either assume that indebtedness or find another tenant to pick it up if we pulled out.

However, we are considering that possibility.

Mr. **Roberts**. Mr. Christiansen, you referred to the repeal of ICR. If it is repealed, how are the cities going to operate? How are they going to get money? They are hollering now that they have got to have more Federal revenue, which I am opposed to, and revenue-sharing. We cannot tax you as fast as they can spend, if they do not have any reservation about collecting the tax. What are you going to have if you do not have ICR?

Mr. **Christiansen**. Well, I was a little confused with some of the earlier testimony with respect to replacement costs. We pay replacement costs now as part of our user charges, in addition to the ICR payment, and it gets to a definition of replacement; they mention replacing pumps and that sort of thing. That is covered by other costs.

Mr. **Roberts**. Well, we call that maintenance and so forth.

Mr. **Christiansen**. Well, it is labeled "replacement", and there is a charge over and above our surcharge for replacement.

Mr. **Roberts**. Just one other thing, and I will pass it on to some of my friends. You were talking about one of the problems we have is excess capacity.

Mr. **Christiansen**. Right.

Mr. **Roberts**. But that is not nearly as expensive to us as too small a capacity. And we have a terrible time getting the right amount. Take a town in my area, not in my district, that has grown from 15,000 in 1940 to 65,000. There is no way—they built two plants. They estimated they had taken care of it; they have not. And there is nothing as useless as an undersized plant. So you have to build another one. And that is twice in one city.

Now, our crystal ball is just not that good; I do not think EPA's is, and I am sure those cities are not, because nobody could have dreamed that a town was going to jump from 15,000 to 65,000 in 30 years.

Mr. **Christiansen**. You are right. One of the problems now is where that excess capacity is provided up to where the municipal plant is twice as large as necessary for the current waste load, is that the operation and maintenance costs go way out of sight, and it is the manner in which they are proportioned and the way that is carried along that is one of the main factors that forces us to consider self-treatment as compared to municipal treatment.

Mr. ROBERTS. Thank you.

Mr. Clausen.

Mr. CLAUSEN. Gentlemen, we thank you for taking the time to come down and appear before the committee to give us the benefit of your actual operating experiences, and we hope that we can look forward to kind of a follow-on input effort on your part.

Sort of following up on the questions for the gentleman from Texas, in your judgment, is it possible to devise a fair user charge funding mechanism to address the funding requirements that are projected to be necessary to deal with the operation and maintenance where you have this combined industry and POTW arrangement?

Mr. KIRK. Well, I think there are a great number of methods that can be used to share operating and maintenance costs. I believe that one can be devised to fairly fit the situation in each case.

It is very difficult to come up with one formula that will fit every case. I think that may be an impossibility.

Mr. CLAUSEN. I recognize that, and frankly, if you would like to have some time on it—I would not expect you to come in off the top of your head—but give some thought to the identifiable variables that are having to be addressed community by community. As far as I am concerned, I would be perfectly satisfied if you would come back to us with what you perceive to be a response to that kind of question.

Mr. KIRK. Congressman, may I ask whether you are looking at the replacement function of ICR along with this, or are you strictly looking at the operating and maintenance requirements?

Mr. CLAUSEN. Well, actually, you are dealing with both. I do not know whether you were in the room when I was engaging in a partial questioning and partial dialog with the EPA people. You know, I am a strong believer in permitting us to move in the direction of advancing technology for pollution abatement equipment in all its forms. And I think in some ways, there was a tendency to move out and try to set standards before they knew what the technology was. Clearly, that has been a factor in clean air. I think the House position was more in line with a realistic approach to attaining that kind of a goal.

So the question of replacement cost and then the operation and maintenance may itself have a variable, when we consider the advancement in technology that has potential application to the cleanup effort, and it is to that end I would like to have you give us the benefit of your thoughts, and I do not ask you to respond now, but if you will provide that information to the committee.

Mr. KIRK. Thank you very much.

Mr. CLAUSEN. Thank you, Mr. Chairman.

Mr. ROBERTS. The gentleman from Minnesota, Mr. Oberstar.

Mr. OBERSTAR. Thank you, Mr. Chairman.

Focusing on just exactly the issue of ICR, putting aside the other questions that EPA has raised in their testimony, there are really two aspects to the operation of publicly owned treatment works, the operation and maintenance and the long-range system improvement, which would include expansion and rehabilitation.

EPA is advancing the argument that ICR is needed because they say—if I can find the exact language that they use—many of the grantees of publicly owned treatment works do not adequately plan for the future, and that therefore, they, EPA, require ICR in order to assure that there will be enough funds in the future to plan for expansions or replacements or rehabilitation.

Well, supposing in your industry you, 5 years down the road, decide you need to expand your operations. Do you plan for it at that time? Do you have long-range plans in which you anticipate a certain amount of growth? Do you plan for it now? Just how do you go about in your own industrial planning efforts to take care or take into account future growth and how to finance it?

I want to have your response to that to see how that compares to how the Government is doing the same kind of planning or not doing it.

Mr. **Christiansen**. I will take that. Where we have built our own wastewater treatment facilities, by and large, we design those to our present load of our plant with provision for expansion when needed.

One of the criteria or one of the thoughts on that is that as technology improves with respect to the amount of waste we generate as related to our production capacity, we do not need as much waste treatment. So we are really looking at it in many respects and thinking that we can grow, but we would be able to grow without increasing the capacity of our wastewater treatment plants.

We do not, in our production plants or in our waste treatment plants, go overboard on spending money on equipment which we cannot use; we cannot afford to do that, and one of the reasons we cannot afford to is the O. &. M. costs on that type of facility are just too much to bear, or it gets you in a noncompetitive situation.

Where we are going into municipal plants, we are required to commit to a certain volume of discharge and a certain organic loading, and we are required to commit for some period of time. There, we have to take a little different view, that sometimes we ask for more capacity than we are currently discharging, because we do not have the flexibility, and this is reflected in our ICR payments.

Mr. **Oberstar**. Now, in both your production facilities and waste treatment facilities, do you have a sinking fund, that is, a set-aside, where you lay funds away for the future and anticipate future problems now, or do you continue to operate until such time as your production facilities have reached their capacity, market demand is such that you need to expand, and then you look about in the money market at that time for funds to justify that expansion?

Mr. **Christiansen**. I am not an expert on our fiscal policy, but I can guarantee that we do not set separate funds aside for our waste treatment facility or for our various aspects of our production facility; we would look at it as a whole, and only generate funds as necessary to make our replacement.

Mr. **Oberstar**. Do you think it is a wise fiscal policy, then, for EPA to require that to be done in publicly owned treatment works, the set-side of funds now in anticipation of some future needs?

Mr. **Christiansen**. No, sir, I do not. I think one of our concerns is—and we have yet to find out how it works—but as these various municipalities develop these funds, why, it is rather hard to feel, or rather unrealistic to expect, that they will have these funds sitting around without doing something with them, and hold them for the basic purpose that they were intended.

And in some cases, in the case of a system which is a straight lagoon system, there is not any replacement necessary for that system. It will last forever.

Mr. **Oberstar**. Just a question from the standpoint of administrative management, or accounting procedures. Is replacement of pumps, as we referred to earlier, a function of operation and maintenance or a function of layaway for the future?

Mr. **Christiansen**. I would consider that any replacement of facilities to keep them operating at their present level of operation is an operation, an O & M, consideration.

Mr. **Oberstar**. And you have no problem with paying your fair share.

Mr. **Christiansen**. No, none whatsoever. That should be part of good O & M costs, is to maintain a plant in its current operating condition.

Mr. **Oberstar**. But if they are going to install bigger pumps and knock walls down, put bigger capacity, then that is a system change that should be accommodated at the time that change is made—

Mr. **Christiansen**. Exactly.

Mr. **Oberstar**. And an assessment made against the present and any future users who join the system.

Mr. **Christiansen**. Right.

Mr. **Oberstar**. It just seems to me that that is what we are trying to do with the basic House approach, but as our colleague from California and as the chairman himself has pointed out on many, many occasions, we do have a different viewpoint across the Hill on the other side, in the other body, and I guess we are just going to have to try to educate them along the way somewhere.

Thank you, Mr. Chairman.

Mr. **Roberts**. The gentleman from Michigan, Mr. Albosta.

Mr. **Albosta**. No questions.

Mr. **Roberts**. Well, thank you, gentlemen. I would like to comment that we had hoped—and you touched on it slightly, Mr. Christiansen, and so did the gentleman from Minnesota—we had hoped that we would build a plant that would do the job and have a little capacity, that innovation and ideas and new frequent methods and so forth would keep up with the growth.

So far, we have spent an awful lot of money on research, and if we have gotten anything concrete from it, I do not know what it is.

Thank you for coming, and thank you for your testimony. We will possibly ask the staff to communicate with one of you or both of you on questions, to fill out the statement.

We will go to the next panel before we adjourn for lunch.

Mr. **Roberts.** Would you gentlemen please take your seats at the witness table, Mr. Marshall and Dr. Busch.

We are glad to have you. We have had some informal discussions already with the paper people; considerable discussion with Dr. Gee, and a great many of the people of the industry and the EPA, just a couple of weeks ago.

The full text of your prepared statement will appear in the record at this point.

[Statement referred to follows:]

STATEMENT OF DUANE W. MARSHALL, NATIONAL COUNCIL OF THE PAPER INDUSTRY FOR AIR AND STREAM AND IMPROVEMENT, ACCOMPANIED BY DR. PAUL L. BUSCH, MALCOLM PIRNIE, INC.

FORWARD

The National Council was established in 1943 by the leadership of the pulp and paper industry as an independent nonprofit corporate entity supported exclusively by that industry. The Council and its professional staff were commissioned at that time to assemble on a continuing basis a repository of pulp and paper industry knowledge and experience pertaining to environmental protection. The evolving work program has since been broadened to embrace the forest products industry, as well. Beyond the role of accumulating existing knowledge, the NCASI staff has been historically charged with responsibility for extending that knowledge through the conduct of a comprehensive environmental technical studies program developed around strengthening the industry's ability to anticipate and best deal with emerging environmental protection needs.

It is in the course of one such study that information has been collected which is thought to be relevant to the Industrial Cost Recovery (ICR) issue currently being considered by this Committee. Presentation of the findings of that study should not be interpreted as a statement made on behalf of the forest products industry or inherently reflective of any position that the industry may care to take on the issue.

INTRODUCTION

My name is Duane Marshall. I am Central-Lake States Regional Manager for the National Council of the Paper Industry for Air and Stream Improvement, Inc. (NCASI), and also serve as Adjunct Assistant Professor at Western Michigan University. I am accompanied here today by Dr. Paul Busch, Vice President of Malcolm Pirnie, Inc., a prominent environmental consulting firm in the municipal and industrial wastewater fields.

The National Council is a nonprofit organization engaged in conducting environmental protection technical studies on behalf of approximately 200 supporting companies who are involved in the manufacture of pulp, paper and paperboard. Environmental technical information needs of the timber products industry are also addressed by NCASI through a program of cooperative technical studies carried out on behalf of the National Forest Products Association (NFPA).

Included in the NCASI investigative program has been a recent study carried out in conjuction with Malcolm Pirnie, Inc. that examined pulp and paper industry experience in publicly owned treatment systems. Resulting reports have been distributed as: "NCASI Technical Bulletin No. 323, Factors Contributing to cost Differences Between Publicly Owned and Industrial Wastewater Treatment Facilities", and "NCASI Technical Bulletin No. 324, Factors to be Considered in the Choice to Participate in Publicly Owned Treatment Systems."

I greatly appreciate your having given me the opportunity here today to summarize the results of those studies insofar as they relate to the industrial cost recovery provisions of the Federal Water Pollution Control Act.

BENEFIT OF REGIONAL APPROACHES

The treatment of industrial and municipal wastewaters in a common facility has been encouraged and supported by government, industry and the public.

Joint treatment is widely regarded as a means for (a) attaining water quality objectives through better managed and regulated regional facilities and (b) the accomplishment of effective treatment at the least cost to all parties.

It has been repeatedly shown that the total community benefits from joint treatment.

In two case studies, industrial participation in regional systems resulted in predicted total annual cost savings to the public of 25 percent. Projected savings in a third were even greater. Under circumstances where industrial participation contributes a total annual cost benefit to the community, operating these plants up to the standards for which they were designed will pose a smaller and more acceptable burden to the local tax base.

The 240 or more identified pulp and paper industry installations that discharge to publicly owned systems indicate the extent of the industry's commitment to joint treatment and its success.

However, evolving legislative and regulatory requirements, along with economic circumstances are combining to make industrial POTW participation an increasingly less attractive option. Industrial cost recovery is a contributing factor.

COST DIFFERENCE BETWEEN PUBLICLY OWNED AND INDUSTRIALLY OWNED TREATMENT FACILITIES

It is generally recognized that municipal treatment plants cost more to construct than functionally equivalent industrial facilities. Yet, industrial participation in a publicly owned treatment works has often been occasioned by a belief that economies of scale would result in overall reduced costs.

However, experience has shown that industrial treatment capacity in a POTW can be 25 to 50 percent greater in cost than in on-site facilities constructed by industry.

A number of factors contribute to that conclusion. First: POTW design appraches required to meet the needs of domestic users result in higher costs to industrial users.

To illustrate, the frequent planning and construction of municipal treatment and wastewater collection facilities to accommodate respective 20- and 50-year growth periods usually results in increased costs to industrial POTW dischargers who would normally provide capacity for a five-year growth period—or less. In the latter case, industry would finance only the facilities it would most likely need, at the time it needs it, as opposed to paying for excess capacity it does not use or in many cases, has no right to use in the future.

In one case study, costs for excess capacity beyond that requested by the existing industrial dischargers for their anticipated future use represented approximately 57 percent of the total costs for the proposed regional system. The final participation agreement required that industry pay for the nearly 50 percent excess capacity in proportion to its share of allocated capacity.

Design practices mandated by government regulation also contribute to greater costs for POTW users.

Federal and State regulatory agencies have developed and drawn upon standards of design practice for POTW's that specify extensive equipment backup, duplication of process equipment, and conservative designs.

The potential effect is illustrated by one case study where a proposed design resulted in a capital cost estimate of 24 million dollars. An alternative design developed around specific characteristics of the combined industrial/municipal waste determined from actual treatability studies was estimated to cost 14.65 million dollars. The savings were attributed to a significant reduction in process unit sizes and complexity.

That is not to suggest that conservative design of municipal plants to assure continuous performance is unjustified. However, options are available to industry to achieve comparable continuity of performance short of incorporating such redundant and conservative design features. Moreover, financially supporting a parallel management structure dedicated solely to wastewater treatment functions imposes a cost to industrial POTW users that is not borne by direct dischargers.

As opposed to establishing a duplicate management and operational structure, industry will meet many of the incremental operating and maintenance requirements of on-site tratement by drawing upon existing personnel and resources inherent with manufacturing operations. The POTW user does not have that option or related cost advantage. An additional disadvantage results where industrial wastewaters, when combined with domestic wastes, are subject to additional treatment requirements not needed for their direct discharge.

For example, the discharge of domestic wastewaters and disposal of sludges resulting from their treatment require that disinfection measures be taken for protection of the public health. The same is true where municipal and industrial wastes are combined for treatment.

However, where industrial wastewaters are treated independently, they normally do not require disinfection. Thus, the direct dischargers are spared the costs that POTW users must bear for disinfection. A parallel exists with sludge management alternatives. Compounding the forementioned cost disadvantages, industry investment in publicly owned treatment systems lacks the favorable tax benefits available to direct dischargers for similar investment in industry-owned facilities.

In one case study, comparison of on-site and POTW treatment options was carried out on the basis of a present value analysis. Factored into the appraisal were (a) the use of industrial revenue bonds, (b) investment tax credits and (c) facility depreciation allowances. Results showed the POTW option to be 36 percent more costly than on-site treatment. Industrial cost recovery charges represented approximately 75 percent of that differential.

Additional factors also tend to diminish any economy of scale benefits that industry might derive from POTW participation.

As regulations expand the administrative requirements imposed upon POTW management, industrial users must bear a proportionate share of the cost—regardless of whether the requirements are warranted.

The result is greater treatment plant costs and increasing pressure upon escalating user fees. Implementation of pretreatment programs is illustrative. Furthermore, redundant treatment resulting from industrial pretreatment requirements diminishes benefits to be gained in regional systems. That is not to suggest that site-specific pretreatment requirements are unwarranted. However, disproportionate cost penalties have been indicated at two midwestern locations.

With the leverage of delays in disbursement of construction grant monies, EPA has mandated that User Charge Systems provide for the assignment of minimum industrial user fees based upon domestic waste concentration.

Where pretreatment, voluntary or otherwise, results in wastes of less than domestic strength, significant industrial contributors may be compelled to pay twice for the same treatment.

The foregoing examples are illustrative, but not all inclusive, of the circumstances which discourage continued industry commitment to regional wastewater treatment approaches.

It has been established that the cost of industrial participation in a POTW can be significantly greater than cost of on-site treatment. At the same time, the industry's historical commitment to joint treatment compels a faith in its future. While relative economies may be changing, the fundamental needs which can best be met by regional treatment systems have not changed. However, achieving the benefits traditionally sought by all in joint industrial municipal treatment systems is not well served by industrial cost recovery, (ICR).

Mr. ROBERTS. Please proceed.

TESTIMONY OF DUANE MARSHALL, CENTRAL-LAKE STATES REGIONAL MANAGER, NATIONAL COUNCIL OF THE PAPER INDUSTRY FOR AIR AND STREAM IMPROVEMENT, INC., ACCOMPANIED BY DR. PAUL BUSCH, VICE PRESIDENT, MALCOLM PIRNIE, INC.

Mr. MARSHALL. My name is Duane Marshall. I am Central-Lake States regional manager for the National Council of the Paper Industry for Air and Stream Improvement. I am accompanied here today by Dr. Paul Busch, who is vice president of Malcolm Pirnie, Inc., a prominent environmental engineering consulting firm.

The national council is a nonprofit organization, engaged in conducting environmental protection technical studies on behalf of the pulp, paper and paperboard industry, as well as cooperative research efforts on behalf of the National Forest Products Association.

Included in our investigative program has been a recent study carried out in conjunction with Malcolm Pirnie, that examined pulp and paper industry experience in publicly owned treatment systems, and the two reports that derived from that study have been provided to the committee, along with a more all-inclusive statement for the record.

I greatly appreciate your having given me the opportunity here today to summarize the results of those studies insofar as they relate to the industrial cost recovery provisions of the Federal Water Pollution Control Act.

The treatment of industrial and municipal wastewaters in a common facility has been encouraged and supported by government, industry, and the public.

Joint treatment is widely regarded as a means for attaining water quality objectives through better managed and regulated regional facilities and the accomplishment of effective treatment at the least cost to all parties.

It has been repeatedly shown that the total community benefits from joint treatment.

In two case studies that we carried out, industrial participation resulted in predicted total annual cost savings to the public of 25 percent. In a third study, even greater benefit was suggested.

The 240 or more identified pulp and paper industry installations that discharge to publicly owned systems indicate the extent of the industry's commitment to joint treatment and the success of that historical commitment.

However, evolving legislative and regulatory requirements, along with economic circumstances, are combining to make industrial POTW participation an increasingly less attractive option. Industrial cost recovery is one contributing factor.

It is generally recognized that municipal treatment plants cost more to construct that functionally equivalent industrial plants. Yet, industrial participation in a publicly owned system has often been occasioned by a belief that economies of scale benefits would offset those greater costs.

However, it has been shown that industrial treatment capacity in a POTW can be 25 to 50 percent greater in cost than in onsite facilities constructed by industry.

A number of factors contribute to that conclusion. First: POTW design approaches required to meet the needs of domestic users do result in higher costs to industrial users. One aspect of this is the longer design periods that must be factored into domestic systems relative to much shorter growth periods for the industrial user.

In one case study, costs for excess capacity beyond that requested by the existing industrial dischargers for their anticipated future use represented approximately 57 percent of the total costs for the proposed regional system. The final participation agreement required that industry pay for the nearly 50 percent excess capacity in proportion to its share of the then allocated capacity.

Design practices mandated by Government regulation also contribute to greater costs for POTW users. Federal and State regulatory agencies have developed and drawn upon standards of design practice for POTW's that specify extensive equipment backup, duplication of process equipment, and conservative designs.

The potential effect is illustrated by one case study where a proposed design built around conventional design standards resulted in an estimated cost of $24 million. In contrast, an alternate design developed around the specific waste in question was estimated to cost $14.65 million. The savings were attributed to a significant reduction in process unit sizes and complexity.

Now, that is not to suggest that conservative design of municipal plants to assure continuous performance is unjustified. However, options are available to industry to achieve comparable continuity of performance short of incorporating such redundant and conservative design features.

Moreover, financially supporting a parallel management structure dedicated solely to wastewater treatment functions imposes a cost to industrial POTW users that is not borne by direct dischargers.

As opposed to establishing a duplicate management and operational structure, industry will meet many of the incremental demands required for operating waste treatment plants by existing personnel and resources that are already functioning within the manufacturing operation.

An additional disadvantage results where industrial wastewaters, when combined with domestic wastes, are subject to additional treatment requirements not needed for their direct discharge.

One example in this regard is disinfection. Many industrial wastes do not require disinfection, whereas with domestic wastewaters, that need does exist. A parallel exists with sludge management alternatives.

Compounding the forementioned cost disadvantages; industry investment in publicly owned treatment systems lacks the favorable tax benefits available to direct dischargers for similar investment in industry-owned facilities.

In one case study, comparison of onsite and POTW treatment options were carried out on the basis of a present value analysis. Factored into that appraisal were the use of industrial revenue bonds, investment tax credits, and facility depreciation allowances. Results showed that the POTW option to be 36 percent more costly than onsite treatment. Industrial cost recovery charges represented approximately 75 percent of that differential.

As regulations expand, the administrative requirements imposed upon POTW management, industrial users must bear a proportionate share of the cost, regardless of whether the requirements are warranted for the particular industry. The result is greater treatment plant costs and increasing pressure upon escalating user fees.

Implementation of pretreatment administrative programs is illustrative. Furthermore, redundant treatment resulting from industrial pretreatment requirements diminishes benefits to be gained by the industry in regional systems. That is not to suggest that site-specific pretreatment requirements are unwarranted.

However, disproportionate cost penalties have been indicated at two midwestern installations.

With the leverage of delays in disbursement of construction grant moneys, EPA has mandated that user charge systems provide for the assignment of minimum industrial user fees based upon domestic waste concentration.

Thus, where pretreatment, voluntary or otherwise, results in wastes of less than domestic strength, significant industrial contributors will be paying in essence for the same treatment twice.

The foregoing examples are illustrative, but not necessarily all-inclusive, and I would have to direct you to our more complete report.

However, I believe that it has been established that the cost of industrial participation in a POTW can be significantly greater than cost of onsite treatment. At the same time, industry's historical commitment to joint treatment compels a faith in its future. While relative economies may be changing, the fundamental needs which can best be met by regional treatment systems have not changed. However, achieving the benefits traditionally sought by all in joint industrial municipal treatment systems is not well served by industrial cost recovery.

That concludes my formal remarks.

Mr. ROBERTS. Thank you, Mr. Marshall. I want to make some comments that I hope will be pleasing to you. I think the format of your statement, the time and the way you handled it, makes you probably the best witness we have ever had before this committee. You do not take an hour to tell us, we do not have to take an hour to go through your format or your speech; you told us what you wanted to tell us.

It is direct—I do not agree with a couple of points, but even before I had gotten the questions down, you had already answered, and at least you have given me your reply to them.

So I want to thank you for coming, and if somebody does not pick up the question, I will ask it again.

The gentleman from Minnesota.

Mr. OBERSTAR. Thank you, Mr. Chairman.

I concur in the chairman's statement about the format, the presentation, and the content of the statement. It is a great pleasure to see something like this presented at the committee hearings.

Mr. MARSHALL. Thank you, sir.

Mr. OBERSTAR. I would like to develop this point you raised of the requirement for industrial pretreatment. Would ICR—perhaps I am not phrasing it right. Let me put it this way. It appears to be an unnecessary burden to have both a requirement for pretreatment and industrial cost recovery.

Now, would the system be anymore acceptable if one or another of those two were dropped?

Mr. MARSHALL. The two stand as distinct questions. Of course, the objective of pretreatment is to prevent upset or passthrough of toxic pollutants at the POTW, and to the extent that the treatment operations at the POTW do not accomplish that, then some prevention measures are warranted.

Now, in many cases, pretreatment, as opposed to being a requirement, was something that the industrial dischargers and the POTW entered into a voluntary agreement on. For instance, in the city of Kalamazoo, at the time the numerous pulp and paper mills in Kalamazoo opted for a joint treatment system, those mills were already practicing primary treatment, and therefore, duplicating that within the city system would have been redundant.

However, the more recent generation plant, with the constraints on user fees, the benefits of the mills practicing that pretreatment are not recognized necessarily in the user fee structure. The mills are compelled to pay a certain fee, based on municipal strength levels, whether their waste is at that level or not.

In order to reduce the overall costs of wastewater treatment to an industry, certainly they are going to engage in measures—be they called pretreatment or raw waste load control options—that will reduce their discharges. This would be true for an indirect discharger in a POTW or for a direct discharger who self treats.

Pretreatment may well be warranted and may be the approach that a company would take. A distinction must be made between pretreatment circumstances where a toxic material might be discharged, and circumstances where measures are taken to reduce raw waste load.

Mr. **Oberstar**. That is a fair enough answer.

Let me repeat part of the statement that EPA presented to this committee.

> Our review makes it appear that industrial users of publicly owned treatment works do enjoy some degree of subsidy, in comparison to similar industries which treat and discharge their own wastes.

On page 3 of your statment, you state that:

> Experience has shown that industrial treatment capacity in a POTW can be 25 to 50 percent greater in cost than onsite facilities constructed by industry.

You are in effect refuting EPA's claim and the claim of others who advocated the ICR provision in the first place, that participation in a publicly owned treatment works is in effect a public subsidy to industry, or at least to one industry as compared to others, in its competitive field.

Mr. **Marshall**. The focus of our reports, and the conclusions drawn from them, suggests that parity does not exist between direct and indirect discharges.

Mr. **Roberts**. Would the gentleman yield to me?

Mr. **Oberstar**. Yes.

Mr. **Roberts**. You hit exactly on the question I was going to come back to, but I still want a little more clarification. Are you talking about comparable treatment and comparable products, comparable waste? Each industry, of course, looks at its own waste and thinks in terms of that. Unfortunately, we have to look at the whole scope, the whole picture. Do you think those figures would stand up, comparable waste, comparable treatment?

Mr. **Marshall**. Pulp and paper industry wastewaters are in many respects comparable to municipal wastes in terms of compatible pollutants.

Mr. **Roberts**. Dr. Busch?

Dr. **Busch**. Mr. Chairman, just a comment along this line. There may be a difference in Mr. Beck's meaning of subsidy and the general discussion of parity. In my mind, parity is really the net cost, after all other things are taken into consideration.

Mr. Beck, in his testimony, described certain things which he said are subsidies to industry, and he listed them just after the notes that you made on page 22.

However, there are other issues which relate not to subsidy but to parity. If industry pays more, for example, for design criteria for collection and treatment because the plant for a municipality is designed in a different way, if industry pays differently for the design features of that facility, if industry pays differently for redundancy in facilities which exist, and other issues as related facilities and staffing, when you get to the bottom line, that is where I see parity, and I differentiate that from the question of subsidy.

Mr. **Roberts**. Thank you.

I thank the gentleman for yielding.

Mr. **Oberstar**. The chairman underscores what I think is really the heart of this issue, and you raise a very interesting contrast of subsidy against parity.

What would you say is the average size of a paper mill in the industry, recognizing there is no average, but what does it work out to?

Mr. **Marshall**. I would expect a 1,000-tons per day integrated pulp and paper mill would discharge 30 million gallons per day.

Mr. **Oberstar**. A 1,000-ton-day, 30 million gallons. Let us take that plant, a 1,000-ton-per-day plant discharging into a newly constructed publicly owned treatment works, and without pretreatment, and one that is discharging, using its own completely constructed works.

Is the one that is doing it on its own, going it alone, going to feel that the other plant of another company, another part of the country, has a financial advantage because they are discharging into a publicly owned treatment works?

Mr. **Marshall**. Our studies would say that they would not.

Mr. **Oberstar**. You refute the basic premise of ICR and the contention of EPA that industrial cost recovery system is needed to offset the subsidy that Government in fact is offering, and the basic contention of those who claim that it is to industry's advantage to participate in publicly owned treatment works because they will in fact be getting a no-interest-bearing loan for doing so.

Mr. **Marshall**. Industrial users of POTW's, particularly those of the size that we commonly have in the pulp and paper industry, do not gain any inherent cost advantage, in discharging to a POTW relative to a direct discharger.

Dr. **Busch**. My firm has spent a good deal of time looking at this problem from both the municipal and the industrial point of view. We represent a large number of municipalities across the Nation. I used to be a great proponent of joint industrial/municipal treatment plants. I thought joint treatment represented advantages in cost to the taxpayer and to the industry. I must say that the cost advantage accrues more and more to the domestic user.

It is my firm belief that the costs of operating in a municipal facility, whereas they once appeared to be seriously advantageous to industry, no longer support those great advantages. And in our examinations of comparisons of self-treatment for an industry, or treatment in a POTW, the numbers which used to appear to be significantly interesting from both points of view are now divergent, and we are finding costs are greater in POTW's.

Mr. **Oberstar**. That premise is going to be attacked, I am sure, by other witnesses before this committee, and certainly by the other body, but it is one that is at the heart of this whole issue, and whatever supporting data you have, if it is not too sizable to be included in the committee hearing, I think it would be useful for the committee files if we could examine the basis upon which you make that presentation.

Dr. **Busch**. Congressman Oberstar, we have submitted two reports to your committee. If, in review, you find additional information is required, I am sure we would be pleased to supply it.

Mr. **Oberstar**. Thank you.

Mr. **Roberts**. The gentlewoman from New York.

Ms. **Ferraro**. No questions.

Mr. **Roberts**. Dr. Busch, I am going to disagree with you. I think you made an error in your statement, for the simple reason if you had not—industry uses the same sliderules we do, only bigger ones, better calculators. If you did not, there would not be a single industry in the country that did not use its own separate pretreatment plant. Now, that is primarily due to the interest rate. But just turn it over in your mind, and give me a note when you get through.

Dr. **Busch**. Well, I disagree with you, Congressman, but I would be pleased to drop you a note on it.

Mr. **Roberts**. Thank you.

The gentleman from California has another question.

Mr. **Clausen**. In your statement you note that the industrial participation in regional systems resulted in predicted total annual cost savings to the public of 25 percent.

I wonder if you could expand on that point, pointing out for the benefit of the committee some of the reasons that industrial participation results in these large savings?

Mr. **Marshall**. Basically, it boils down to the economy of scale provisions. This applies not only capital cost-oriented, but also includes total annual operating cost. Furthermore, you are distributing across a broader array of users the total costs of operating a plant by virtue of the fact that industry is sharing in that total fixed operating cost.

Mr. **Clausen**. All right, fine. I will be submitting some other questions to you. Thank you.

The Chairman has asked that I submit this question on behalf of the committee. In the study that you have already done, can you estimate the potential impacts of the three options Mr. Beck suggested this morning—and we are going to suggest that maybe you take some time to respond to that, and I would ask unanimous consent that the gentlemen have their responses included in the record at this point.

Mr. **Marshall**. I would be happy to do so.

[The following was received for the record:]

reply to: CENTRAL-LAKE STATES REGIONAL CENTE
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ncasi
NATIONAL COUNCIL OF THE PAPER INDUSTRY FOR AIR AND STREAM IMPROVEMENT, INC.

March 26, 1980

The Honorable Ray Roberts, Chairman
Water Resources Subcommittee
Committee on Public Works and Transportation
United States House of Representatives
2165 Rayburn House Office Building
Washington, D.C.

RE: H.R. 6667 (Reauthorization of Certain Provisions of the Clean Water Act and Repeal of ICR)

Dear Mr. Chairman:

At the conclusion of my March 12th testimony before your Subcommittee, you requested that I submit additional written comment on the alternative approaches to industrial cost recovery (ICR) that were advanced by Mr. Eckardt Beck, Assistant Administrator, U.S. Environmental Protection Agency. In response, I have prepared, for the record, the following comments. Also enclosed for the record are NCASI Technical Bulletins 323 and 324, reports which were referenced in my earlier testimony.

Based upon Mr. Beck's March 12th statement, the Environmental Protection Agency has endeavored to justify industrial cost recovery on the basis of (a) an original intent of Congress to eliminate a preferential subsidy to industries discharging into publicly-owned wastewater treatment works and (b) a "persuasive" consideration relating to the ability of municipalities to make necessary operational improvements, facility replacements and upgradings in the absence of an earmarked pool of revenues. Yet, on further examination of that statement:

> The various technical modifications to ICR advanced by the Agency (a) do not support the Congressional intent cited, (b) ignore already established procedures for assuring the long-term fiscal integrity of publicly-owned treatment systems and (c) do not encourage the longer range application of cost effective measures for reducing industrial wastewater discharges at their point of origin.

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The means by which the Agency proposes to remedy recognized shortcomings in the ICR provisions of the Federal Water Pollution Control Act are most conveniently characterized and examined in terms of four options.

EPA
OPTION 1 Increase the flow exemption from 25,000 gallons per day (gpd) to 50,000 gpd of waste.

At the existing level of exclusion, ICR has been criticized by spokesmen for the municipal treatment sector as a consequence of the resulting administrative burden. To suggest that the administrative burden is significantly relieved by excluding an incremental 6 percent of industrial POTW users does seem incredulous. However, further comment is deferred to those who will be called upon to administer ICR programs.

Exception must be taken with Mr. Beck's contention that administrative costs cannot be expected to escalate. Insofar as ICR is assigned on the basis of waste quantity and composition, I know of no way that labor intensive laboratory analyses can be avoided. One would not expect salaries of trained laboratory personnel to remain static. Thus:

> By Agency admission, overall administrative costs are not dramatically reduced by doubling the exclusion level. Moreover, annual costs for administering ICR programs can be expected to erode an increasing portion of the funds recovered.

As a further advantage, the Agency goes on to point out that increasing the flow exemption would "benefit a greater number of small firms that in many instances are unable to afford or obtain financing for self-treatment facilities."

At first glance, this position seemingly compromises the forementioned interpretation of Congressional intent. Yet a fundamental distinction needs to be made:

> Implicit in this first option is an Agency recognition and acknowledgment that societal benefits do warrant to some extent "subsidizing" industrial use of publicly-owned treatment works.

That point goes to the heart of the question.

In describing the nature of the "subsidy" which POTW participation brings to industry, the Agency statement has myopically focused on only one side of the balance sheet. On one side, as pointed out in the Agency statement being relieved of the financial burden of (a) raising capital to fund treatment plant capacity and (b) paying the full market cost of that money are positive factors in the decision-making process leading to industry use of POTW's. (To suggest, however, that indirect dischargers are "spared the substantial management, administrative, and legal costs associated with operation and maintenance of a treatment system, as well as the requirements for application of a discharge permit and accompanying monitoring and reporting requirements" is an exaggeration which ignores the fact that such costs are apportioned among POTW users.) At the same time potential benefits must be viewed in the context of accompanying economic liabilities that either offset or overwhelm them. My previous statement and the reports from which it was derived clearly establish the existence of economic penalties which are borne by industry as a consequence of its POTW participation. The Agency statement expresses no recognition of these penalties.

Neither does the Agency statement express recognition of the economy of scale benefits which accrue to the public as a result of industry POTW participation. If indeed construction grants represent a subsidy to industrial POTW users, it should be regarded in the classical definition of the word--"a grant by a government to a company to assist in an enterprise deemed advantageous to the public". In that regard:

> Public benefits from regional treatment approaches are more attributable to the larger industrial contributors rather than those whom the Agency proposes to exempt from industrial cost recovery requirements.

For reasons cited in Mr. Beck's statement, increasing the ICR exclusion limit to 50,000 gpd does contribute to the public interest. As a result, doing so warrants consideration. However, it should be recognized that such an increase does little to secure the economy of scale benefits sought in regional systems.

If indeed a threshhold limit is to be perpetuated, equity among POTW users would suggest that larger dischargers not be entirely excluded from the benefit enjoyed by smaller contributors. One means of achieving that result would be assignment of ICR fees on the basis of only that portion of the industrial discharge in excess of the exclusion limit.

EPA
OPTION 2 Exempting from the program those grantees that can demonstrate that ICR revenues were not needed for achieving long-range obligations for treatment system improvements of rehabilitation

Existing EPA regulations (40 CFR 35.929-2[a][2]) require that user charge systems generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works. Replacement expenditures, by definition, are intended to maintain the capacity and performances for which the treatment works were designed over the time period that the plant will be operated.

In practice, replacement has been interpreted to include measures going beyond those needed to merely sustain a plant for its design life. To illustrate, EPA approval of the user charge system for the City of Kalamazoo was conditioned upon the establishment of a separately maintained equipment replacement fund that would recover over a 20-year period the total cost of treatment plant equipment involved in a 100 million dollar expansion and upgrading. Resulting revenues are estimated to be nearly 3 million dollars per year. Local industry is expected to provide 50 percent of that amount. Industrial cost recovery, in part paying for that same equipment, will add an incremental one million dollars per year over a 30-year period. In addition, local industry continues to bear responsibility for repayment of its proportionate share of the 15 million dollar local obligation bonds. Therefore:

> Notwithstanding ICR requirements, user charge systems currently mandated by EPA regulation provide for the accumulation of funds dedicated to equipment replacement.

In terms of additional future treatment capacity that might be required by the community, one must ask if future needs are not best met by future users when requirements are better known. The use of present funds to meet long-term capital needs has little precedent in either industrial or municipal fiscal practice. Furthermore:

> An ongoing industrial obligation to capitalize a second generation of publicly-owned treatment systems imposes a bias toward the long-range use of external wastewater treatment approaches. This discourages additional investment in and the use of innovative technologies aimed at raw waste load reduction achievable through manufacturing process modifications.

This situation is further aggravated in the Agency's fourth option. Additional comment will be made in discussion of it.

EPA
OPTION 3 Permitting grantees that do not seek Federal financing for industrial capacity to avoid ICR requirements

Seemingly, this option has always existed. The usefulness of this approach is contingent upon serving a fundamental objective of joint treatment--accomplishing effective treatment at the least overall cost to all parties. Discussion of this option in the Agency statement is subject to any number of interpretations. For instance, one might infer an intent to assign to industry only the incremental costs above those which would otherwise be borne by the public for treatment of its domestic flows. Focusing solely upon capital costs, this would seem to reserve all economy of scale benefits for the industrial users. However, in terms of operation and maintenance, fixed costs which would exist regardless of industrial participation would be shared by industrial users. Conceptually, both the public and industry could benefit. Thus:

> In terms of apportioning costs among industrial and municipal users, an approach incorporating the above interpretation points to a symbiotic relationship that should not be peremptorily dismissed.

Final judgment must be reserved until the specifics of an implementing plan can be detailed.

However, availability of Federal financing of industry's incremental portion of the treatment works should be continued. Repayment under terms outlined by Mr. Beck is less than constructive, but does reflect present economic realities. When divorced from the broader provisions of this option, however, a contraction of the ICR payback period and imposition of interest fees mitigate what little incentive remains for industrial POTW participation.

EPA
OPTION 4 Require industrial users to sign a contract guaranteeing their obligation to pay for treatment capacity

There is a growing suspicion within industry that EPA policy is directed toward minimizing industrial use of publicly-owned treatment systems. Regardless of whether such an intent exists, the effect of Agency regulations is the same. As opposed to proposing punitive measures that force continued industrial support of publicly-owned treatment systems, EPA should reappraise its existing policies that prompt previously committed industries to construct their own treatment works.

> The perceived need for such a recommendation is a tacit acknowledgment that significant industrial dischargers bear an increasing economic liability as a consequence of POTW participation

NCASI surveys suggest that 21 percent of pulp and paper industry capital expenditures for water quality protection were dedicated to internal manufacturing process measures for containing or reducing pollutional losses. As cost effective measures for doing so increasingly become available, their use should be encouraged. However:

> Obligating industry to fixed external wastewater treatment capacities (a) does not encourage the advantageous use of less polluting manufacturing processes and (b) poses an additional penalty where lower waste loads result from pretreatment measures mandated by EPA regulation.

On the one hand the Agency expresses concern over the inability of municipalities to fund future capacity and, on the other, laments the fact that declining industrial usage might result in unused capacity.

EPA further justifies this option to cover the contingency of industry demanding greater capacity than is required. Seemingly, this could be more equitably handled by requiring an obligation only for "reserved" capacity which exceeds established needs.

Whatever ICR program ultimately evolves, its implementation should make a clear distinction between existing users of publicly-owned systems and those who might elect to do so in the future. For instance, applying the provisions of Option 4 to existing users imposes an inequitable condition never envisioned in the original choice to discharge to a POTW.

In summary, the public policy issue which must be dealt with goes beyond industrial cost recovery. In question is whether (a) regional treatment approaches of mutual benefit to the public and industry warrant renewed encouragement or (b) whether national policy is reflected by the growing number of regulatory initiatives which discourage joint industrial/municipal wastewater treatment.

Respectfully,

Duane W Marshall

Duane W. Marshall
Regional Manager

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Enclosures

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STREAM IMPROVEMENT
TECHNICAL BULLETIN NO. 323 August 14, 1979

FACTORS CONTRIBUTING TO COST DIFFERENCES BETWEEN PUBLICLY-OWNED AND INDUSTRIAL WASTEWATER TREATMENT FACILITIES

The Federal Water Pollution Control Act of 1972 required that industrial users of publicly-owned treatment works pay for that portion of any federal grant awarded for construction or improvement of the wastewater system allocable to the treatment of the industry's effluent. Amendments included in the Clean Water Act of 1977 directed the Administrator of EPA to conduct a study on the efficiency of and need for industrial cost recovery (ICR). This study concluded that the industrial cost recovery provisions of PL92-500 had not accomplished their legislative purposes for several reasons. Among these were (a) impaired ability to serve as an equalizer, (b) failure to control design and construction of excess future plant capacity, (c) failure as an incentive for water conservation and (d) cumbersome administrative requirements. Other undesirable effects were (a) high ratio of administrative costs to revenues collected, (b) increased administrative costs at the local and state operating level, (c) increased costs to industry and (d) creation of dissimilar costs with regard to type and size of business.

A key objective of the original ICR provision of the Act was to maintain 'parity' in waste treatment costs among industries treating and those using publicly-owned treatment works. The study carried out for EPA as a provision of the 1977 amendments to the Clean Water Act did not explore the parity question in depth. The National Council then engaged Malcolm Pirnie, Inc. to identify those factors responsible for cost differences which are inherent in the design and operation of publicly-owned treatment facilities when compared to similar industrially owned and operated systems. Mr. Duane W. Marshall, Central and Lake States Regional Manager acted as project manager for the National Council.

The study describes two nonparity areas, quantitative and qualitative. Factors contributing to nonparity in areas that could be quantified by case histories or experience were several. These included such things as (a) design period and design life of public works to cover periods of 20 years in contrast to 5 for industry, and (b) disparity between average and peak flow when comparing publicly-owned and industrial facilities, hence disproportionate costs for sewers and treatment facilities for industry discharging to publicly-owned treatment works. The time from conception to operation of publicly-owned treatment works of about 7 years has resulted in unforeseen costs to industry as a result of inflation. The construction of municipal facilities designed for the life of bond issues of 25 years, hence greater finance charges when compared to industrial facilities was another factor. The infrequent need to consider aesthetics in industrial treatment plant construction, availability of utility services, lack of required redundancy in equipment,shared facilities and staffing, reduced sludge disposal costs and no need for disinfection all account for reduced construction and operating costs at industrially owned treatment facilities.

Areas where cost differences exist but were difficult to quantify included differences in cost for facility location, and flexibility by industry to control flow and load, hence minimize or eliminate excess design capacity.

Stream Improvement Technical Bulletin No. 224 is a companion to the subject material covered herein. It elaborates on the pulp and paper industry's recent experience in the relative costs of industrially constructed and operated treatment facilities versus participation in municipally-owned joint treatment systems through presentation of a series of case histories.

Your comments and questions on the contents of this technical bulletin are solicited.

Yours very truly,

Russell O. Blosser
Technical Director

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FACTORS CONTRIBUTING TO COST DIFFERENCES BETWEEN PUBLICLY-OWNED AND INDUSTRIAL WASTEWATER TREATMENT FACILITIES

I SUMMARY AND CONCLUSIONS

Industrial Cost Recovery (ICR) was required under the 1972 Federal Water Pollution COntrol Act. When the 1972 Act was amended in 1977 by the Clean Water Act, the EPA Administrator was directed to "conduct a study on the efficiency and need for ICR." The firm of Coopers and Lybrand was retained by EPA to conduct this study. Their report noted that the legislative intent of the ICR provisions was fourfold, namely:

(1) To maintain parity in sewage treatment cost.

(2) To provide for capacity in design and construction of wastewater treatment systems with adequate but not excess capacity for future growth.

(3) To implement water conservation.

(4) To promote self-sufficiency of public wastewater treatment facilities.

The Coopers and Lybrand study (8) concluded, however, that in actual practice, the industrial cost recovery provisions of P.L. 92-500 had not accomplished these legislative purposes. Coopers and Lybrand reached this conclusion without dealing at length with the objective factors responsible for inherent differences in cost of publicly owned treatment facilities designed primarily to deal with municipal sewage and industrial owned treatment works handling industrial wastewater.

The National Council of the Paper Industry for Air and Stream Improvement, Inc. therefore engaged Malcolm Pirnie, Inc., an environmental consulting firm with extensive experience in the municipal, industrial and joint municipal-industrial wastewater treatment field to develop information on this point to supplement the Coopers and Lybrand report. Malcolm Pirnie was asked to address areas where parity does not exist between industries that construct their own treatment works and those that participate in a POTW.

The supplemental information presented subsequently in this report compares such quantitatively different factors responsible for significant cost differentials as:

(1) Design criteria for collection and treatment facilities
(2) Design features
(3) Degree of redundancy
(4) Related facilities and staffing
(5) Sludge disposal
(6) Disinfection.

In addition, this report compares areas where parity does not exist in such qualitative areas as:

(1) Facility location
(2) Effluent guidelines
(3) Flexibility of wastewater loadings, and
(4) Equalization of flows and loads

Based on both the quantitative and qualitative factors which have been presented herein, it has been established that the cost to industry to join a POTW is often significantly greater than the case if the industry had constructed its own works.

It has been repeatedly shown that due to economics of scale and synergistic effects,the total community benefits from joint treatment. However, it has been Malcolm Pirnie, Inc.'s experience that, because of the method usually employed to apportion capital expenditures, construction costs for industry can be as much as 25 to 50 percent greater in a POTW than for industry constructing its own treatment facilities. This report addresses some of the reasons for this disparity.

These economic factors join to encourage the construction of individual industrial treatment works rather than participation in a POTW. However, those industries physically constrained by their urban environments and which have no option but to join a POTW must find that ICR creates non-parity - the exact reverse of the legislative intent. ICR also would result in non-parity for thos industries which find other reasons that make it necessary for them to join a POTW.

Congress also assumed that when industry joined a Publicly Owned Treatment Works (POTW), economies of scale would result in two areas: reduced unit costs of constructing the required facilities and reduced operation and maintenance costs for both the domestic and industrial users. In addition then, the disparate features of ICR further the encouragement of individual industrial treatment works. This in turn runs counter to another of the basic underlying features of the Act, namely promotion of larger and fewer treatment works through regionalizatén.

As a result, the ICR provisions of the 1972 Act do not appear consistent with the legislative intent to provide parity between industrial users of a POTW and those industries which construct their own treatment works.

II INTRODUCTION

A. Legislative History and Purpose

The 1972 Federal Water Pollution Control Act required that industrial users of public wastewater systems pay for that portion of any federal grant awarded for construction or improvement of the wastewater system allocable to the treatment of the industry's wastes. In the February 11, 1974, Federal Register, (1), EPA promulgated Section 35.925-2, Industrial Cost Recovery Rules and Regulations, which includes the mandate:

> That, in the case of any grant assistance awarded after March 1, 1973, for a project involving Step 2 or Step 3, signed letters of intent have been received by the applicant from each significant industrial user to pay that portion of the grant amount allocable to the treatment of its wastes. Each such letter shall also include a statement of the industrial user's intended period of use of the treatment works. A significant industrial user is one that will contribute greater than 10 percent of the design flow or design pollutant loading of the treatment works. In addition, the applicant must agree to require all industrial users to pay that portion of the grant amount allocable to the treatment of wastes from such users.

The 1977 Clean Water Act amends sections of the 1972 Act pertaining to Industrial Cost Recovery as indicated in the Federal Register of September 27, 1978 (2).

> Section 24 of the 1977 Act amends Section 204(b) of the FWPCA to authorize the Administrator to exempt from the Industrial Cost Recovery (ICR) requirement any industrial user which discharges the equivalent of 25,000 gallons per day or less of domestic sanitary wastes.
>
> Section 75 of the 1977 Act directs the Administrator to conduct a study on the efficiency of and the need for ICR and to report on the study to assist Congress to take action on the future course of ICR. The study is to be completed by June 30,1979, and during the period of the study EPA may not enforce the collection of ICR payments. This is known as the "moratorium" period. At the end of the moratorium, if Congress has not acted, the requirements to make payments of ICR attributed to this period will come back in force. Any ICR obligations incurred during the moratorium will become immediately due, but payments of those obligations may be paid in a lump sum within one year or spread out over the remaining ICR period.

The definition of an industrial user has been changed to read as follows:

> Any non-governmental, non-residential user of a publicly-owned treatment works which discharges more than the equivalent of 25,000 gallons per day of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and

and supplemented under one of the following divisions:

Division A - Agriculture, Forestry and Fishing
Division B - Mining
Division D - Manufacturing
Division E - Transportation, Communication,
Electric, Gas and Sanitary Services
Division I - Services

(1) In determining the amount of a user's discharge for purposes of ICR, the grantee may exclude domestic wastes or discharges from sanitary conveniences.

To implement the requirement of the 1977 Act, EPA contracted for the services of Coopers & Lybrand to prepare a study of the "efficiency of and need for" the repayment by industry of that portion of the EPA grant used for construction of industrial capacity in publicly-owned wastewater treatment systems. The results of their study were to be available to EPA for a report to Congress by December 31, 1978.

The Coopers and Lybrand study concluded that the legislative intent of the ICR provisions of the Act could be summarized along four lines:

(1) The maintenance of parity in sewage treatment costs. (Is sewage treatment less expensive for industries using treatment works paid for in part by Federal funds than it is for industries treating their own sewage?)

(2) Enhanced capacity, through the design and construction of wastewater treatment systems with adequate but not excess capacity for future growth.

(3) Water Conservation

(4) Self-sufficiency, since 40 percent of ICR is retained by the grantees, earmarked for future upgrading and expansion of the wastewater treatment works. (*The other 60 percent of the total funds collected under ICR is returned to EPA).

The study concluded however that the industrial cost recovery provisions of P.L. 92-500 had not accomplished their legislative purposes, since

(1) Changes in tax law and IRS regulations since 1972 have impaired the ability of (or need for) ICR to serve as an equalizer in sewage treatment costs. For medium or large dischargers of compatible

wastes, it appears less expensive over time to build and operate their own self-treatment facilities than it is to pay a proportionate share of the operating costs and local debt serve of a public sewage treatment system.

(2) ICR has not served to control design and construction of excessive future capacity in wastewater treatment facilities. The average usage in the 227 facilities surveyd was 68% of design capacity.

(3) ICR is not credited with a role in encouraging water conservation. The industrial plants responding to the Coopers and Lybrand survey reported an average reduction in water use of 29% (which could have an impact on the amount of future capacity that should be built), but attributed the reduction to increased water rates and sewer user fees rather than ICR. ICR is a relatively small charge to industry when compared with sewer user fees and water rates(ICR on the average is equal to about 10-15% of total sewage costs).

(4) ICR is inherently cumbersome to administer, and it does not seem probable that it can be further improved or modified without eliminating its original intent.

According to Coopers and Lybrand, ICR is also found to have the following undersirable effects:

(1) It is a set of burdensom, complex federal laws and regulations that are only marginally cost effective, when the administrative costs of ICR are compared to the ICR revenues collected.

(2) It increases the administrative costs associated with developing, implementing, and monitoring revenue systems at the grantee, state, and EPA levels.

(3) It increases total sewage costs to industry.

(4) It creates discrimination in sewage costs, both with regard to type of business and size of business charged.

On the other hand, ICR was found by Coopers & Lybrand to have the potential positive effect of generating revenues to grantees and the U. S. Treasury. Total ICR revenues over 30 years are estimated to be between $1 and $2 billion. A few municipalities have already included their portion of operating budget plans.

B. Purpose and Scope of This Study

As noted above, a key objective of the original ICR provision of the Act was to maintain 'parity' in sewage treatment costs among industries treating their own waste water and those using Publicly Owned Treatment Works. Since the Coopers & Lybrand study did not deal extensively with the objective factors bearing on the parity question, the National Council undertook to explore this question in greater depth.

Malcolm Pirnie, Inc., a consulting firm with extensive experience in the design and construction of wastewater treatment facilities for both industry and municipalities was retained by the National Council to prepare an additional study identifying those factors responsible for cost differences which are inherent in the design and operation of Publicly Owned Treatment Works (POTW) relative to similar systems industrially owned and operated.

Because of the limited scope of the study, the effort of Malcolm Pirnie, Inc., was to be directed toward identifying those circumstances contributing to the inherently greater costs of publicly owned facilities as compared with those constructed by industry. In preparing the study the nonparity area was divided into two sub-areas as follows:

(1) Nonparity Quantitative Areas - Those areas that could be quantified by case histories or hypothetical cases based on the experience of Malcolm Pirnie, Inc.

(2) Nonparity Qualitative Areas - Those areas that could not be easily quantified but, based on the experience of Malcolm Pirnie, Inc., about which there was very little question that they affected the cost of constructing, operating and maintaining wastewater treatment facilities.

III NONPARITY QUANTITATIVE AREAS OF COST DIFFERENTIAL

A. Introduction

Quantitative areas are here defined as those areas where specific cost differences can be developed between industry participation in a POTW and industry construction of its own system. The points covered in this section have been developed to include relative costs based on Malcolm Pirnie, Inc., experience and actual case histories.

B. Design Criteria for Collection and Treatment Facilities

(1) Design Periods - EPA, in its publication, "Guidelines for Preparing a Facility Plan," (revised May 1975) (3), states that the planning period should extend 20 years beyond the date the planned facility is scheduled to begin operations. The most cost-effective plan may provide for phasing construction of operable parts of the facility to meet changing conditions over the

planning period. Wastewater flows may be projected for years beyond the 20-year planning period when determining the most cost-effective design for interceptor sewage.

Prior to the May 1975 guidelines, each State had its own criteria for planning, which in many cases consisted of 20 to 25 years for the treatment works and 50 years for the interceptor sewers. EPA, in its September 27, 1978 "Rules and Regulations for Municipal Wastewater Treatment Works," (2), has narrowed language pertinent to the planning period, with the probable result that facilities will be constructed with design periods less than 20 years. The new regulations went into effect on October 1, 1978.

Because of State and EPA guidelines and regulations, many municipal treatment facilities designed to treat industrial wastes are constructed for a 20-year growth period and interceptor sewers for a 50-year growth period. On the other hand, industries, if required to provide their own treatment facilities, would normally plan for a growth period of five years or less. Shorter planning periods for industry are necessary because of changes in process technology, product demand, economic conditions, and other factors.

Planning and construction of municipal collection and treatment facilities for 20-and 50-year growth periods, as against five-year periods for industries, usually results in increased costs to industries that elect to have their wastes treated by the municipal facilities. The magnitude of the increased costs is dependent on the methodolody used by the municipalities in allotting retirement of capital costs and operating and maintenance costs and whether or not the industries contract with the municipalities for such services.

If the industries have not contracted for wastewater collection and treatment services, the municipality, in setting up its cost recovery methodology, usually establishes a unit cost per gallon for treating domestic sewage or its equivalent, with surcharges for BOD_5, suspended solids and other pertinent characteristics in excess of limits set by the POTW. In the early years of operation, until such time as the facility operates at its design loadings, all contributors are paying equally for the cost of constructing and operating and maintaining the excess capacity.

If, on the other hand, industry had constructed its own facilities, it would have to finance only the facilities built for its present load plus any planned growth capacity. It would not be paying for excess capacity which it does not need and, in many cases, has no right to in the future.

(2) Peak Capacities - When industries are located remotely from the publicly-owned treatment works (POTW), and nevertheless join the POTW, they usually share disproportionately in the cost of the required trunk and interceptor sewers.

Paper mills and many other process industries are 7-day-a-week, 24-hour-a-day operations. The wastewater stream from an industrial complex normally does not exhibit large variations in flow. Because of possible variations in waste loads other than flow, industries will control the characteristics of the wastewaters by equalization methods, which equalize not only the characteristics of the wastewaters but also the variations in flow. Peak-to-average flow variations may range from 1.25 to 1.00.

Municipal trunk and intercepting sewers, by contrast, must be designed for peak-to-average flow variations of 4 to 1. A sewer capable to carrying an average municipal flow may be three times larger than that required to accommodate the same average flow from an industrial complex.

For a municipality with an average daily flow of 20 million gallons per day (mgd) the trunk or intercepting sewer has to be designed to carry peaks of up to 80 mgd. This might require a 72 to 84-inch diameter pipeline. For an industry with a 20 mgd average daily flow the pipeline would be 36 to 42-inches in diameter.

Here again, depending on the methodology used by the municipality to raise revenues to finance the construction and operation and maintenance of its collection system, the industry will be paying on a unit cost basis along with the nonindustrual users, despite the fact that the industrial user does not need a facility to handle flow variations up to four times the average. Industry is once again paying for excess capacity it does not need.

(3) Implementation Timing - The planning of wastewater treatment facilities by a municipality is usually a long, drawn out procedure. Constraints start at the municipality and continue up through the State and EPA. The proces, from the decision that action on wastewater treatment is needed, to startup of treatment facilities may, with few exceptions, take seven years or longer. The cost of the needed facilities may escalate by 50 to 60 percent from their initial concept to ready-to-serve status. If industry's wastewaters are to be treated by these facilities, industry will have to pay its share of these increased costs.

In many cases the final cost of the wastewater facilities is not known until construction is completed. Ore extreme case is the upgrading of a facility that was initially planned in the late 1960's and has just recently been placed in operation. Based on the regulatory requirements of the late 60's, the cost of the needed facilities was estimated at $20 million. The final cost of upgrading the facility, approximately eight years later, is $56 million. The difference resulted from a number of circumstances, but the major factors were: more stringent regulatory requirements regarding effluent quality, changing technology, and inflation.

Had the final cost structure been known, industrial decisions to use the POTW made under the earlier cost estimates would have been reversed to suggest constructing a company-owned and operated project.

To complicate the issue further, under current EPA rules and regulations, a "significant" industrial contributor is required by letter of intent to participate in the POTW prior to initiation of design.

Once industry determines that it must provide facilities to treat its own wastewaters, it is not encumbered by the same procedural regulatory constraints that operate on the municipality -- it is its own master. In fact, the planning and construction of an industrial facility normally takes less than three years.

Here again, industry, if it is part of a municipal system, is paying a higher price for services than it would if it were providing the same services itself.

C. Design Features

(1) Construction Philosophy - Municipal wastewater treatment facilities are designed for longer usable life spans and lower maintenance. Because major municipal improvements are financed by the sale of bonds, whose terms are usually 25 years or more, the improvements are designed to last at least for the duration of the bond term. It would be considered poor financing practice on the part of a municipality to plan a major improvement, finance it by the sale of long-term bonds, and have to replace the facility at the end of ten years.

In the case of industrial planning, however, a much shorter pay-out or write-off period is usually adopted for capital improvements. Since it is assumed when a capital project is conceptualized that it may be changed within five years, alternate types of construction can be chosen.

Industry, with knowledge of existing production and a range of wastewater characteristics that might be expected from future production changes, can design a plant for the specific wastewater from present or near future products.

An industry that elects to have its wastewaters treated jointly with the community's wastewaters in a POTW is paying its share of the construction cost of treatment facilities that have a much longer design life than similar treatment faciliteis the industry would provide. The total cost of paying interest on a 25-year debt and retiring a portion of that debt annually is greater than paying off the cost of less expensive facilities over a five-year period.

If industry has entered into a contract with the POTW, then it is even more likely to be supporting the increased cost of financing facilities with a 25-year design life. Most contracts require the industry to accept the obligation of paying the local share of the capital cost for the full term of the bonds, whether or not the industry continues to use the facilities.

(2) Aesthetics - Industry does not have to take into consideration the aesthetics of its wastewater treatment facilities to the same degree as with a POTW facility.

Although there are some outstanding exceptions, many industrial waste treatment facilities are usually located on marginal land of the manufacturing operation, removed from public sight. The facilities are functional and receive aesthetic treatment consistent with the industrial facility. The POTW is located on the best site available after all economic and environmental considerations have been weighed. Although the site may be on marginal land, the buildings and facilities developed on the site are usually well treated architecturally and the site well landscaped. This is standard practice: facilities paid for and owned by the public should be pleasing to the public.

For a $30 million POTW, the average costs of architectural treatment, site development and landscaping range from approximately 5 to 10 percent of the total costs. If industry elects to have its wastewaters treated by the POTW, it must pay its share of the extra cost of the aesthetic treatment of the POTW facilities.

(3) Availability of Utility Services - Industrial complexes usually are capable of furnishing normal utility type services to industrial wastewater treatment facilities at a minimum cost. Many industrial complexes have their own water supply system, secondary voltage electric distribution system, a central steam system, and in some cases a central compressed air system.

If water is purchased from the local water service system, it is purchased at wholesale rates. Similarly, when electricity is purchased, it is purchased at prime voltage and the substation-distribution system is owned and operated by the industry; this results in reducing the cost of electricity to a minimum. Industrial complexes normally have a central, highly efficient steam-generating plant, provided with a steam distribution system to supply steam to all the plant operations, which can be extended to serve the waste treatment facilities.

All of these industrial operations result in reduced capital and operating costs for both manufacturing facilities and ancillary services.

In the case of a POTW, none of these services are readily available. Usually the treatment facilities are located in remote areas some distance from areas of substantial growth. Water and gas mains must be brought some distance to the treatment facilities, and electrical supply in many cases becomes a major undertaking. Unless the facility is located near an industrial zone, high voltage service is not readily available. The capacity of the high voltage grid serving the normal residential-commercial area, in many cases, does not have sufficient capacity to meet the demand of the wastewater treatment complex and may be reinforced for considerable distances.

A typical example is the case when a POTW had to be located on riverside land a considerable distance from any public street, electric line, water line or gas line. For a source of potable water and to provide fire protection, it was necessary to extend a water main over 5,000 ft. at a cost of nearly $100,000. Although there was electric power within 5,000 ft. of the site, the capacity of the electric distribution system was inadequate to handle the anticipated load and the system had to be reinforced for several thousand feet. The cost of bringing an adequate electric service to the site was approximately $175,000.

Because of the lack of adequate utilities in the vicinity of the municipal wastewater treatment facilities, the cost of constructing, as well as operating, such facilities is much greater than for similar facilities located in an industrial complex.

D. Degree of Redundancy

Municipalities are subject to the rules and regulations of the regulatory agencies in the areas of redundancy and fail-safe system. Industries have more flexibility on this subject since they have different options than the POTW.

EPA and State regulatory agencies control the minimum sizing and number of process units that can be supplied for a POTW. EPA Technical Bulletin 430-99-74-001 (4) details the requirements pertaining to the design criteria for mechanical, electrical, fluid systems and component reliability for POTW. The minimum number of treatment units is specified for different reliability classes which are related to use of the receiving waters. Extensive backup equipment is specified.

The "Recommended Standards for Sewage Works", as compared by the Committee of the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, (5) also details the backup equipment that should be supplied. This specified redundancy of process units and equipment, plus the maximum loading rates dictated by the large diurnal variations in wastewater flows and characteristics, results in oversized process units that would not be necessary if industry were providing an equivalent service.

The best example of redundancy of requirements of regulatory agencies is the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers requirement for activated sludge facilities. Briefly, it states that:

(a) If mechanical aerators are used, the aeration unit installation shall be so designed as to meet the maximum air demand with the largest unit out of service.

(b) If diffused air is used, the air piping and diffuser system shall be capable of delivering 200 percent of the normal air requirements. Air blowers shall be in multiple units, so arranged and in such capacities as to meet the maximum air demand with the single largest unit out of service.

Unless the source of pollution can be controlled, wastewater treatment facilities must be designed to include "fair-safe" features to meet the regulatory agency's effluent or stream standards. A municipality has little or no control over the source of domestic pollution - it cannot "shut down" people. Industry, on the other hand, has the maximum control over the pollution tributary to its treatment facilities. It can decide whether or not to design redundancy into its facilities or to curtail the manufacturing operations if redundancy has not been provided and part of the treatment process fails.

Another consideration is that industry has a unique maintenance situation: most industries shut down their entire operation for two to three weeks per year, allowing process units to be taken out of operation and major maintenance performed. POTW do not have this option; flow to a POTW can never be shut off and in many cases can never be bypassed.

An industry can perform the same wastewater treatment function as a POTW at lower first costs and operating and maintenance costs because of the uniqueness of its operation.

E. Related Facilities and Staffing

POTW's are usually administered by either a department within a municipal government or by an independent authority created by a larger political subdivision. Recently the trend has been to the authority-type of administration.

The authority is a semi-autonomous agency with a staffing structure completely independent of other municipal operations. Tables of organization range from a board of directors through the lowest level of laborer. A large segment of the labor force is in the financial-revenue collection area.

A typical, medium-sized sewerage authority (15 to 25 mgd) usually has the following administrative or management personnel:

(1) Director
(2) Chief Engineer/Deputy Director
(3) Director of Engineering
(4) Director of Treatment Operations
(5) Director of Maintenance
(6) Director of Finance

In the case of an industry adding a wastewater treatment facility to its existing operation, there should be no requirement for new hiring in the above areas. The plant manager is already present and so are the engineering and maintenance staff. The increased financial services load is considerably less than that for engineering or maintenance services. The plant's purchasing and accounting departments have the capacity to take on the small increase in work load. When industry elects to have its wastewaters treated by a POTW, it must also pay its share of the cost of managing the municipal division. If it elects to treat the wastewaters independently, most of these costs are eliminated.

Associated with the creation of an authority to manage and operate a POTW are the additional office space and equipment required. Office space for the meetings of the authority member the director and his staff is usually provided as part of the POTW facilities.

If industry elected to treat its own wastewaters, these facilities would not be required. All of the functions performed by the authority staff would be performed by members of the existing staff of the industrial complex.

When industry elects to treat its own wastewaters the only additional personnel required are those who will conduct the day-to-day operation of the treatment facilities. Specialized electro mechanical maintenance personnel are available from the industrial maintenance labor pool, as are any extra common laborers that may be required. Since the wastewater treatment facility is just another operating division of the industrial complex, it does not create anyadded operating costs other than the day-to-day cost of operating and maintaining only the treatment facilities.

As in the case of specialized personnel, industry would have lower costs for specialized maintenance equipment than a POTW. Normal operation and maintenance of wastewater treatment facilities would require some portable auxiliary equipment such as pumps, compressors, welding and burning equipment, hoist etc. The POTW must purchase and use this equipment exclusively for the authority's facilities, whereas an industrial facility would normally be able to draw upon existing supplies from the central maintenance pool.

Industry is much better equipped to maintain and operate sophisticated instrumentation systems than a POTW. Process industries are heavily dependent on instrumentation and automation in their manufacturing processes, since the use of instrumentation and automation improves the products and reduce costs. On the other hand, a new sewerage authority must hire and develop instrumentation specialists, who are not normally available from a municipality's civil service staff. For the medium sized POTW the operating staff usually includes one automation-instrumentation specialist plus several mechanical-instrumentation maintenance shift operators.

Instrumentation and automation allow industry to cut operating costs by eliminating the need for round-the-clock manning of the wastewater treatment facilities. Signals from the instrumentation system can be relayed to other continuously staffed areas of the industrial complex, where personnel are available to take appropriate action if malfunctions occur. At a municipal plant, on the other hand, staff must be kept on the site specifically to monitor the operations, and this may make automated systems redundant.

F. Sludge Disposal

A large portion of the construction and operating cost of POTW is that associated with the treatment and disposal of the sludges produced in treating the wastewaters. Based on EPA's "Construction Costs for Municipal Wastewater Treatment Plants (1973-1977), (6) the construction costs for sludge handling and disposal facilities for a medium sized facility are equal to approximately 50 percent of the total cost of all facilities. In one case involving a paper mill waste the construction cost of sludge handling, when the industry elected to "go it alone", was only 15 percent of the total treatment facilities' cost.

Since POTW sludges are principally a product of domestic sewage, they present a major disposal and public health problem. Because they contain putrescible matter and may also contain pathogenic organisms, the sludges must be digested, composted or incinerated. Digestion and composting will destroy most of the pathogenic organisms and will reduce the putrescible matter to a controllable level. Incineration will do the most complete job of controlling both pathogenic organisms and putrescible matter.

When industrial wastes are mixed with the domestic waste they must be treated equally and the costs shared equally. The treatment and disposal of industrial sludges alone, produced by the treatment of wastewaters is not as onerous a problem as that associated with the sludges from a POTW.

The majority of industries separate their domestic sewage from their industrial wastewaters to prevent contamination of the latter by organisms originating from humans. EPA has examined pulp and paper wastes and although some coliform organisms were present, the agency concluded that they are not of human origin and require no disinfection or special treatment in sludges. Many of the sludges produced by treatment of industrial wastewaters are less biodegradable than those from domestic sewage. The rate of degradation is slower and odor and leachate problems are usually much less severe.

The cost of treating and disposing of industrial wastewater treatment sludges alone is normally much less than similar costs for a mixture with the sludges from domestic wastes. Industrial sludges normally do not present public health problems similar to those found with domestic sludges.

G. Disinfection

The public health aspects of most wastes tributary to a municipal wastewater treatment facility require disinfection of the entire effluent. The materials used to disinfect wastewater streams, such as chlorine and ozone, not only kill any potential pathogenic organisms but also oxidize some of the organic matter remaining in the treated effluent. Before a residual of the disinfectant can be maintained, some of the demand for the disinfectant by the more easily oxidizable organic matter must be satisfied. The higher the degree of oxidizable organic compounds present in the wastewater effluent, the greater the amount of disinfectant required. Once industrial wastewaters are mixed with the domestic wastewaters their oxidizable organic fractions consume some of the disinfectant used and increase the cost of the POTW operation.

Wastewater from the pulp and paper industry, once separated from domestic sewage, requires no disinfection, although a chlorine demand is present. If a pulp and paper mill were to discharge ten million gallons per day of wastewater to a POTW, it would probably add a chlorine demand of 500 to 1,000 pounds per day to the total chlorine demand of the POTW. This unnecessary use of chlorine would add approximately $35,000 to $75,000 per year to the cost of operating the POTW.

If industrial wastewaters are treated separately, they normally will not require disinfection before discharge to the receiving stream. By electing to have its wastewaters treated jointly with those of a POTW, industry automatically incurs the unnecessary cost of paying the capital and operation and maintenance costs of disinfection.

IV NONPARITY QUALITATIVE AREAS OF COST DIFFERENTIAL

A. Introduction

The following section of this Report deals with areas where cost differences exist (but are not easily defined) between participants in joint municipal/industrial wastewater treatment systems and the equivalent treatment of wastewaters in industrially-owned facilities. This section covers specific points which cannot be easily quantified but which, based on experience, doubtless affect the cost of constructing, maintaining, and operating wastewater treatment facilities.

B. Facility Location

POTW and industrial wastewater treatment facilities have different constraints that control the siting or location of their facilities and their total costs. The regulatory requirements for municipal facilities are in the best interest of all concerned parties. Municipal treatment facilities are usually sited on lands and in locations where no similar prior land use existed. All environmental effects are considered before a site can be approved, and if the preferred site has the potential for sufficient environmental effects, EPA may decide that a comprehensive Environmental Impact Statement if necessary.

After all environmental effects are weighed and a site is found acceptable, in many cases the site is not the most cost-effective site from an engineering-construction viewpoint. Access to the site may be difficult, foundation conditions may be adverse, and availability of services may be nonexistent or difficult. Thus the total cost of the facilities may be greater than at some of the other considered sites precluded by environmental constraints.

Industrial waste treatment works are usually located on land that is already owned by the industry and has been zoned by the local political subdivision for industrial development, including industrial wastewater treatment. The construction cost is the principal siting consideration, since the land would eventually be used for either other manufacturing operations or for the wastewater treatment facilities.

Because industry has more flexibility in siting its treatment facilities, the cost of such facilities is usually less than the cost of similar facilities constructed by a POTW using Federal grant funds.

C. Effluent Guidelines

POTW and industrial wastewater treatment facilities are governed by different sets of Federal effluent regulations. In August 1973, EPA promulgated rules and regulations on Secondary Treatment Information;(7) these require that all POTWS must achieve a minimum of secondary treatment, with further treatment a possible requirement for water quality-limited streams.

In the same regulation, industrial wastes were covered as follows:

> For certain industrial categories, the discharge to navigable waters of biochemical oxygen demand and suspended solids permitted under Sections 301(b)(1)(A)(i) or 306 of Act may be less stringent than the values given in paragraph (a), (b) and (b)(1) of 133.102. [the values stated in (b) above].

Since the August 1973 Rules and Regulations, EPA has issued, and is continuing to issue, Effluent Guidelines and Standards for specific industrial wastes. The Effluent Guidelines and Standards are presented in terms of allowable discharge of pounds of BOD and suspended solids per 1000 pounds or per ton of product. How industry achieves these effluent limitations is entirely up to the industry. It can be accomplished exclusively by wastewater treatment or by a combination of manufacturing process changes, housekeeping and wastewater treatment, the procedure to be determined by greatest economy.

If industry elects to join a POTW for treatment and disposal of its wastewaters, it must accept the fact that its wastes and the domestic wastes will receive at least secondary treatment and the final effluent will have to meet the August 1973 Rules and Regulations. In many cases this will expose industry to a much higher treatment cost than if it had elected to treat its own wastewater.

D. Flexibility of Wastewater Loadings

A POTW has very little control over the characteristics or quantity tributary to its facilities. Its only control over the characteristics of commercial or industrial wastewaters is through sewer use ordinances. A POTW cannot stop or alter the quantity or characteristics of the domestic sewage tributary to its facilities. If the treatment process is upset or becomes overloaded, POTW operators are helpless to keep the effluent quality within its prescribed limits. Because sewer connections cannot be shut off, the POTW must be designed to handle all likely wastewater characteristics consistent with sewer ordinances.

On the other hand, industry is the sole controller of what wastewaters are generated. If the wastewater treatment process is upset, the manufacturing operations can be curtailed until the cause is corrected, at which time the process can then be placed back in operation. The process theoretically should never become overloaded since industry controls the manufacturing process generating the wastewater load. If the treatment of wastewaters from a particular product line become difficult or expensive, industry can elect to eliminate or modify such a process line.

If industry elects to have its wastewaters treated by a POTW, it must share in the extra costs of constructing and keeping available excess treatment capacities to cover unforeseen contingencies.

E. Equalization of Flows and Loads

The POTW must be designed so that the average treatment over a 24-hour period meets regulatory agency effluent requirements. Because of large diurnal variations, in some cases a range of 1 to 8 with the higher-than-average flow and load lasting longer than the minimum flow and load, the process units must be sized to treat the average of the peak flow and load period. Large diurnal flow and load variations are usually not the case for an industry which, whenever possible, equalizes the wastewater loads entering its treatment facilities. Since these facilities also equalize flows, treatment process units need not be oversized and are, therefore, less expensive to construct and operate.

V LITERATURE REFERENCES

(1) Federal Register, February 11, 1974 (FR 39 (29) 525-5270) "Water Pollution Control, Construction Grants for Waste Treatment Works.

(2) Federal Register,September 27, 1978, (FR 43 (188) 44022-44099) "Municipal Wastewater Treatment Works, Construction Grants Program"

(3) "Guidance for Preparing a Facilities Plan," Municipal Wastewater Treatment Works Consturction Grants Program. Revised 5/75, U.S. EPA NCD-46, Section 4.3, p. 7.

(4) "Supplemental to Federal Guidelines; Design, Operation and Maintenance of Wastewater Treatment Facilities Design Criteria for Electrical and Fluid Systems and Component Reliability for POTW," Technical Bulletin, U.S. EPA, EPA 430/9-74-001, Section 200, p. 15-37.

(5) "Recommended Standards for Sewage Works", adopted by Great Lakes Upper Mississippi River Board of State Sanitary Engineers, May 10, 1960 - printed by Penna. State Dept. of Health, Harrisburg, Pa.

(6) "Construction Costs for Municipal Wastewater Treatment Plants (1973-77)," Office of Water Program Operations, Section 6.1, EPA 430/9-77-013 (MCD-37).

(7) Federal Register, August 17, 1973, Part 2,"EPA Water Programs Secondary Treatment Information," p. 22298.

(8) "Industrial Cost Recovery," A Report to Congress by Coopers & Lybrand, Volum I-Executive Summary, U.S. EPA, Office of Water Program Operations, Washington, DC. (December 1978).

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STREAM IMPROVEMENT
TECHNICAL BULLETIN NO. 324

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FACTORS TO BE CONSIDERED IN THE CHOICE TO PARTICIPATE IN PUBLICLY-OWNED TREATMENT SYSTEMS

The pulp and paper industry has extensive experience with treatment of their effluent in publicly-owned treatment works (POTW's). About one-half the primary manufacturing installations discharge to a POTW, most being smaller mills located in the Middle West and North East with a significant number located in California. No particular technical problems have been encountered since the treatment processes for municipal waste and the industry's effluent are similar and treatment of the combined effluents is compatible. In fact the commitments for either on-site treatment or POTW treatment have already been made. Circumstances now exist in which a mill already connected to a POTW must consider the benefits of withdrawal. Contributing factors may include (a) projected mill expansion, (b) changes in user fee schedules, (c) the imposition of pretreatment requirements or (d) incremental costs associated with the need to upgrade the municipal facilities.

The material covered in NCASI Stream Improvement Technical Bulletin No. 323 discusses in some detail the array of factors accounting for the lack of "parity" in waste treatment costs among industries treating and those using publicly-owned treatment works. Prepared by Malcolm Pirnie Inc., one of several consulting engineering firms who are intimately associated with the costs of construction and operation of POTW's and industrially owned and treatment works as well, it identified several areas where non-parity existed.

The contents of this technical bulletin, prepared by Duane M. Marshall, Central and Lake States Regional Manager, represent further examination of the pulp and paper industry's recent experience with the cost of participation in POTW's. The study was carried out by assembly and review of case studies of a company's experience in the past 6 to 8 years. Several circumstances were identified where the apportionment of POTW construction and operating cost place a disproportionate, and possibly inequitable, burden upon industrial users of the system. This cost disparity existed even in the absence of any requirements for Industrial Cost Recovery (ICR) called for in Public Law 92-500. It was concluded that the attractiveness to industry of participation in publicly-owned treatment works is diminished by (a) industrial cost recovery, (b) pretreatment requirements and (c) the assignment of user fees, on the basis of domestic waste strength characteristics as a minimum.

Your comments on the contents of this technical bulletin are solicited.

Yours very truly,

Russell O. Blosser
Technical Director

ROB
mfs
Att.

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FACTORS TO BE CONSIDERED IN THE CHOICE TO PARTICIPATE IN PUBLICLY-OWNED TREATMENT SYSTEMS

I INTRODUCTION

As early as 1951, NCASI investigative programs carried out at the Virginia Polytechnic Institute gave attention to the technical feasibility for combined treatment of municipal wastewaters and those originating with the manufacture of pulp and paper (1). By the mid 1950's, the widespread development of municipal wastewater collection and treatment systems had presented many pulp and paper mills with the choice of participating in publicly-owned treatment works (POTW) or constructing on-site facilities. This prompted early Council evaluation of the technical and economic considerations involved in making that choice (2)(3).

While the examples cited in that previous work may be dated, the principles which they illustrated are no less valid now than when first enunciated. At a time when installations may be reappraising earlier choices with regard to POTW participation, it is appropriate to review those considerations in terms of more recent experiences.

II INCIDENCE OF JOINT TREATMENT

It was reported in 1962 that 10 percent of the industry's 850 manufacturing installations discharged all process wastewaters into municipal systems (3). In 1977, 240 mills doing so were identified (4) and their number is thought to now be significantly greater.

Elements of available data profiling over 100 of these installations is summarized in Table 1. As a generalized class, these mills tend to be relatively small and are commonly involved in the manufacture of (a) paper and board derived from a secondary fiber furnish, (b) fine papers, (c) specialty products or (d) a diversity of short-run grades. Instances do exist, however, where larger integrated chemical pulp mills do discharge to public facilities. Geographically, pulp and paper industry POTW users are predominantly found in the Northeast and Midwest.

For existing installations, the momentum of the industry's water quality protection efforts has been such that original commitments for either on-site or POTW treatment have long since been made. What presently needs to be addressed, however, is the situation of a mill already connected to a municipal system which finds that circumstances call for review with an eye to withdrawal

TABLE 1 PROFILE OF PULP AND PAPER INDUSTRY POTW USERS

PRODUCTION CATEGORY	NO.	CAPACITY, TPD			DISCHARGE, MGD		
		Range	Median	Mean	Range	Median	Mean
Wastepaperboard	50	14-1200	133	184	0.02-22	0.4	1.38
Deinking	5	74-492	296	259	1-9.2	2.6	4.2
Fine Paper (Nonintegrated)	16	7-178	68	79	0.001-2	0.3	0.6
Fine Paper (Integrated)	7	41-942	140	294	0.8-30	6	8
Miscellaneous Products (Nonintegrated)	8	13-300	54	91	0.1-4.7	0.8	1.7
Miscelaneous Products (Integrated)	7	50-1000	315	417	0.3-20.5	10.0	9.8
Tissue (Nonintegrated)	4	62-290	113	141	0.5-6.2	2.2	2.6
Tissue (Integrated)	4	150-330	173	218	2.1-11.6	5.3	6.0

and construction of independent facilities. Contributing factors might include (a) projected mill expansion, (b) changes in user fee schedules, (c) the imposition of pretreatment requirements or (d) incremental costs associated with the need to further expand or upgrade the muncipal facilities. Furthermore, at a time when local industrial development boards are encouraging new manufacturing employment opportunities in urban areas, individuals responsible for new plant siting should be equally sensitive to the implications of POTW participation.

III FACTORS TO BE CONSIDERED IN EVALUATING THE POTW TREATMENT OPTION

It should be recognized at the outset that the fundamental objective of joint treatment is the accomplishment of effective treatment for protection of receiving stream quality at the lowest possible cost to all parties consistent with dependable performance. Joint treatment of municipal and industrial wastewaters is a viable approach only when that objective can be legitimately served, and where economic benefits to doing so are equitably shared by both, public and private, users of the system. Isolated instances do exist where a municipality may exert undue pressure on an industry to participate largely to collect additional revenues or, conversely, where industry may exert local influence to obtain favored treatment in the setting of rates. Both the public and industry are poorly served by these approaches which inevitably lead to technical and fiscal difficulties.

Experience has shown that a number of factors should be weighed carefully by industry in its appraisal of wastewater treatment in municipal systems. While these are principally technical and economic, they cannot be considered apart from such political realities as (a) the degree of public understanding and acceptance of joint treatment, (b) attitudes of local officials and (c) potential legal problems.

As inferred previously, the various factors were detailed in earlier NCASI publications (2)(3). It is appropriate to repeat them here from a perspective of present circumstances and experience.

A. Land Availability

At newer mills located on comparatively large sites, land availability for on-site treatment faciltiies is not as serious a problem as for older mills located on smaller sites where expansion over the years has left little or no land that can be committ to that use. Furthermore, the latter category of mills are frequently located in urban areas where greater congestion leaves little practical recourse but to discharge to a POTW where that option is available and feasible.

B. Availability of Personnel

Larger mills do have greater latitude than smaller mills in assigning personnel responsibilities for the operation of on-site treatment facilities. However, discharge to a publicly-owned system relieves neither of a continued responsibility for mill wastewater control programs conceived to better manage material losses. Accompanying this is the need for on-going analytical efforts to monitor the success of those programs as well as to provide a data base to either substantiate compliance with discharge restrictions or verify the basis for user fees and/or surcharges levied by the municipality.

C. Waste Compatibility

The successful experience associated with the widespread treatment of pulp and paper industry wastewaters in publicly-owned facilities leaves little room for doubt about their compatibility for treatment with municipal wastewaters. This judgment is further reinforced by the fact that treatment technologies generally employed in the municipal sector find broad application in the industry's own treatment systems. As expressed in the Effluent Limitations Guidelines Development for the Group I, Phase II manufacturing subcategories (5), "No constituents of the effluent discharged from mills within the bleached kraft, groundwood, sulfite, soda, deink and nonintegrated paper mills segment of the pulp, paper, and paperboard point source category have been identified which would interfere with, pass through, or otherwise be incompatible with a well designed and operated publicly-owned biological waste water treatment plant." That is not to suggest, however, that pilot studies are not useful to optimize design criteria around specific waste combinations or alternative treatment plant configurations. However, every effort should be made to achieve adequate pre-engineering with the active participation of engineers intimate with the industry's wastewaters and treatment practices, particularly on smaller projects and those with a significant industrial load contribution.

Nevertheless, differences in treatment needs and objectives should be recognized. For instance, unlike the case for municipal effluents, mill effluent chlorination serves no useful purpose since pathogenic organsims are absent and results only in additional expense. In the case of chemical pulping effluents, costs of meeting the incremental increase in chlorine demand may be substantial.

D. Industrial Waste Pre-Treatment Requirements

Potential requirements for the preliminary treatment of industrial wastewaters prior to discharge to the municipal system evolve from (a) desire on the part of the municipality to restrict waste loads with treatment plant capacities or on the part of the mill to minimize often-imposed surcharges to serve that same end, (b) compliance with local sewer ordinances designed to protect either the life of the plant and appurtenances or assure the continuity of the treatment process, or (c) Federal regulations yet to be finalized which are intended to establish general and categorical pre-treatment requirements for industrial discharges. It is the intent of the latter to restrict the discharge into municipal systems of pollutants which would interfere with, pass through, or otherwise be incompatible with the municipal treatment works. To serve that end, pretreatment standards may be anticipated for those pollutants such as heavy metals and other priority pollutants which parallel the Best Available Technology level of control which would be required if the industrial plant were a direct discharger. The tie between local pretreatment programs and national BAT direct discharge effluent limitations for the various industry subcategories should be recognized. This obligation may be relaxed hpwever, to the extent that it can be demonstrated that (a) the POTW removes all or any part of the pollutant in question, (b) the POTW discharge does not violate any associated discharge limitation or standard which the industry would have to meet if it did not utilize the POTW and (c) treatment by the POTW does not prevent sewage sludge use or disposal in accordance with EPA regulations.

At present, pulp and paper industry pretreatment practices are largely directed toward suspended solids removal either by on-site primary clarification or internal process control measures. The impetus for doing so stems largely from either (a) the POTW's having been designed around the existing mill practices at the time, (b) inadequate POTW capacity to handle greater solids loads, (c) mill desire to reduce user fees or (d) recovery of solids for reuse. Some discharge situations also require pH control.

In going further, industrial users of POTW's should be sensitive to the imposition of pretreatment requiremetns which are expressed in terms of concentration limits on effluent constituents. Such an approach does not serve as an adequate substitute for determination of the allowable total load a given POTW could acceptably handle with subsequent allocation on a mass basis among individual significant dischargers. In addition, concentration limits discourage mill water use economy measures that would inherently benefit the public system in prolonging adequacy of its design volumetric capacity.

In anticipation of national pre-treatment standards, it should be pointed out that existing requirements developed around local sewer ordinances and contractual obligations appear to have functioned satisfactorily with pulp and paper industry dischargers. One might question whether the objectives in establishing standardized pre-treatment requirements would not be better served where they can be developed technically on a case-by-case basis reflecting well identified individual system needs. Similarly more extensive routine wastewater analyses and monitoring requirements which might be required on an across-the-board basis could well go beyond that justified by local system needs.

It would be premature to speculate on the character which the categorical pre-treatment standards might finally take other than to identify the three levels of technology being considered. These include (a) internal control steps, (b) primary clarification and (c) biological treatment. Their establishment and future revision pose an uncertainty with which POTW dischargers will have to contend. However, the more extensive the pretreatment requirements, the greater will be the incentive for independent treatment.

E. Municipal System Management Record

Where industry is a significant contributor, the system management record (a) in dealing with the public and other regulatory agencies, (b) in solving technical operation and maintenance problems and (c) with regard to financial responsibility must be carefully weighed. Sound management generally is reflected in a willingness to responsibly solve minor problems associated with industrial participation as opposed to arbitrarily using industry as a scapegoat in an atmosphere of public agitation and recrimination. An additional benchmark is a practicing awareness of the previously defined objective of joint treatment in the development of institutional agreements serving that end.

F. Reduced Flexibility of Municipal Plants

Since many municipal bond issues currently are preceded by local referendum or legislative acts to extend limits of legal indebtedness, a city will be reluctant to add to or modify the plant very often. Administrative obstacles pose further complications. As a consequence, POTW capacity may have to be put in place well in advance of its actual need.

On the other hand, a private industry has more flexibility and can more rapidly add additional treatment capacity as needed, with the presumption that the increased plant load results from manufacture of new products which will bring in the necessary revenue. An industry has greater latitude in trying new, more cost effective treatment methods after suitable study as it does in its manufacturing processes, than a municipality working with public funds.

G. Relative Costs and Their Allocation

Funds for the construction of on-site industrial treatment facilities are generally taken from current earnings or working capital. With municipal plants being funded by means of bonds, the cost of construction may be paid for gradually by the user. Thus, the ability to expend the capital costs of treatment facilities through service charges paid to municipalities is an attractive option to industry. However, similar advantage has also been obtained in the use of industrial revenue bonds to fund industrially-owned treatment plants.

It is generally recognized that municipal treatment plants cost more to construct than functionally equivalent industrial facilities. Among the factors contributing to this are:

(1) design standards consistent with a plant life extended over the lengthy duration of the bond issue funding the plant

(2) the use of capital intensive approaches where they can be justified for lower annual operating and maintenance costs--(thermal sludge conditioning for instance)

(3) design criteria mandated by state or local government codes

(4) inclusion of such treatment processes as disinfection or nutrient removal not normally required of segregated industrial wastes

(5) redundancy in equipment to assure the continuity of plant operation, in case of emergencies or periodic maintenance, in contrast to the available industry option of curtailing wastewater flows by interim shutdown of the processes in which they originate

(6) purely discretionary design features incorporated at the option of the local officials and/or choice of the designer.

Among the latter is a greater attention to architectural treatments in design of main structures, as well as site preparation. Sizable expenditures for sewers may also be required as part of the municipal system. Operating costs may also be lower in an industrial plant due to (a) closer labor supervision, (b) larger scale purchasing of chemicals, maintenance supplies and utility services and (c) the use of existing personnel and resources to incrementally support treatment plant functions.

These potentially greater costs to industry are somewhat offset by the lower unit construction costs resulting from the economy of scale associated with a larger joint plant. From the mid 1960's until 1972, the availability of government funds from the construction grants program further reduced this differential. Since that time however, the Industrial Cost Recovery (ICR) provisions of PL92-500 have required all industrial users to pay that portion of the grant amount allocable to treatment of wastes which they discharge. The Clean Water Act of 1977 established a moratorium on collection of industrial cost recovery charges pending further study and evaluation of the ICR concept in terms of achieving its intended objectives. The question remains to be resolved. Whether ICR will be perpetuated is an uncertainty to be weighed in evaluation of the municipal discharge option.

H. Uncertainties Implicit in Long-Term Financial Commitments

A number of mills participating in publicly-owned systems have been called upon to commit themselves for long periods ranging up to the life of the bond issued to fund the POTW. There is an inherent reluctance within industry to become tied to such long-term financial arrangements. Potential manufacturing plant obsolescence, the changing nature of industrial processes and the continuing development of alternative treatment technologies contribute to this reluctance.

While seeking lowest possible treatment costs, management generally would find unsatisfactory any user fee schedule subject to criticism on grounds of favored treatment and thus, adversely reflect on itself as well as municipal authorities. At the same time, the stability of rate structures for exisiting plants, as well as the reliability of pre-construction estimates of costs, should be carefully reviewed and compared with independent estimates for separate treatment to determine whether continued savings may result from participation. The liklihood of user fee escalation should be factored into any economic evaluation. Furthermore, rate structures which include surcharges developed on a concentration basis should be carefully weighed in terms of their impact resulting from long term water use economy programs.

I. Summary

The wide variety of situations that may arise relating to (a) land availability, (b) personnel commitments, (c) evolving pre-treatment requirements, (d) municipal management attitudes and capabilities, (e) equitable cost allocation and (f) fiscal uncertainties make it undesirable, if not impossible, to generalize on the advisability of initiating or continuing with a joint treatment approach. Except for instances where physical limitations of space leave no alternative, individual attention must be given to each of the above questions. Experiences at a number of pulp and paper mills detailed further herein illustrate the importance of doing so.

IV RELATIVE COSTS OF ON-SITE AND POTW TREATMENT OF PAPER MILL WASTEWATER

A. Introduction

The treatment of industrial and municipal wastewaters in a common facility has evolved beyond the mere extension of a municipal service to an approach wherein (a) economy of scale economic benefits might be derived for all participants and (b) public policy for achieving environmental protection goals through regional approaches could be accomplished. These ends are threatened where industrial participation poses an economic liability to that sector. Beyond pure economy of scale benefits, the decision to participate in a publicly-owned treatment system will be influenced by (a) financial considerations arising from an assigned return on capital invested in an industrially owned system, (b) availability of such least cost options as industrial revenue bonds for funding privately-owned systems and (c) benefits resulting from tax advantages not available where wastewaters are discharged to publicly-owned treatment works. A 1972 appraisal of treatment alternatives carried out on behalf of a mill in the Eastern United States is illustrative.

B. Impetus for the Regional System

In 1971, a comprehensive wastewater management plan was developed to include a regional wastewater treatment facility designed to serve a county-wide system. An in-depth treatability study was conducted to determine whether wastewaters from several major industries in the area could be treated by a conventional activated sludge plant. A paper mill was included among those industries. From the treatability study it was concluded that the various industrial discharges could be discharged to the proposed regional facility with no adverse impact. The determination was made that full industrial participation would require the construction of a 60 million gallon per day facility. Capacities allocated to each of the dischargers are shown in Table 2.

TABLE 2 REGIONAL PLANT CAPACITY ALLOCATION

WASTEWATER SOURCE	CAPACITY-MGD
Municipal	25
Industry A	14
Industry B (Paper Manufacturer)	20
Industry C	1
TOTAL	60

In the absence of industrial particpation, a 25 mgd would have been required to treat only municipal flows. A financial analysis developed as a part of the original county planning study and shown as Table 3 indicates the substantial public financial benefit due to participation of the major industries in the regional system.

TABLE 3 AVERAGE ANNUAL COST PER EQUIVALENT DWELLING UNIT (1) 1974 to 1992 (5)

DISTRICT	CONVEYANCE		TREATMENT		TOTAL	
	W/INDUSTRY	W/O INDUSTRY	W/INDUSTRY	W/O INDUSTRY	W/INDUSTRY	W/O INDUSTRY
A	2(2)	2	17	23	19	25
B	5	-	12	-	17	-
C	15(2)	11	17	23	32	34
D	4(2)	14	17	23	21	37
E(3)	25	25	17	23	42	48
F(3)	25	25	17	23	42	48
G	25(4)	25(4)	17	23	42	48
H	25(4)	25(4)	17	23	42	48

Notes: Calculations made using the following assumptions:

a. Capital cost escalation estimated at 5.0% per year
b. Operating cost escalation estimated at 2.5% per year
c. Bonding based on 6.75% per year, 40-year term with no payment for first 3 years
d. Federal and State grants estimated at 50.0% of eligible capital costs
e. State annual payment estimated at 2.0% of eligible costs not included in Grant

(1) Equivalent Dwelling Unit (Average flow from EDU assumed at 83,000 gal/year)

(2) Not eligible for Federal/State funding

(3) Applies only to flow in excess of WWTP capacity

(4) Sufficient users not available between 1976 - 1982 to pay entire annual costs. Figures given were calculated using assumption that County Authority would provide necessary monies to ensure reasonable cost per user for this initial period. After 1982, annual user revenues are adequate to pay annual costs and reimburse County Authority for 1976 - 1982 subsidy.

(5) Cost expressed in dollars

C. Equity of Industry Participation

In the course of evaluating its options, the paper company developed an economic analysis of the costs of constructing and operating an on-site disposal system relative to those anticipated with participation in the regional system. Results are shown in Table 4.

(1) Cost Basis for Regional Treatment - Based upon rate structures developed at the time, capital costs of the plant allocable to the Paper Company were estimated as follows:

Treatment Plant	$8,300,000
Interest During Construction Capitalized	208,000
Sewer	2,590,000
TOTAL	$11,098,000

It was further assumed that the Regional Authority would receive a 75 percent Federal grant, though it was recognized that some portions of the Regional Project might not qualify for Federal grant funds. On that basis, it was estimated that up to $6,225,000 of grant funds would be received by the Authority for treatment plant costs applicable to the Paper Company. As a consequence of Industrial Cost Recovery, this funding was considered repayable as 30 equal annual installments. It was assumed that the remaining treatment plant investment costs ($2,283,000) would be financed by municipal bonds to be repaid in equal installments over 28 years at an interest rate of 5-3/4 percent.

It was anticipated that the Paper Company would construct the pipeline to be financed by industrial revenue bonds sold at an interest rate of 5-3/4 percent. Repayment over the initial 15 years was estimated exclusively as interest, with the principal repaid in equal installments over the remainder of the 30-year term of the bond. The plant investment was also assumed to qualify for a 2 percent annual State allowance toward operating costs or $42,000 each year for a period of 50 years.

A combined State and Federal tax rate of 51 percent was applied to the Paper Company's expenses deductible for income tax purposes. Such deductions included (a) the full amount annually paid to the Regional Authority, (b) interest on industrial revenue bonds and (c) depreciation of the connecting pipeline over a 13-year period. The latter also qualified for a 7 percent investment tax credit.

In carrying out the capital investment evaluation, annual cash flow over the life of financing was reduced to a "present value" at the beginning of Year One by discounting at a rate of 8 percent per anum.

TABLE 4 COMPARISON OF REGIONAL AND ON-SITE TREATMENT COSTS*:
SUMMARY OF PRESENT VALUES

	REGIONAL	ON-SITE	DIFFERENCE
Treatment Plant			
Federal Repayable Grant	978	--	978
Municipal Bond	783	--	783
Ind. Bond	--	2,952	-2,952
Tertiary Treatment			
Federal Repayable Grant	85	--	85
Municipal Bond	62	--	62
Conveyance Facilities			
Ind. Bond	1,075	--	1,075
Sludge Handling			
Ind. Bond	--	437	-437
Operating Cost			
Treatment	2,679	3,045	-366
Conveyance	253	--	253
Depreciation			
Treatment	--	-2,046	2,046
Conveyance	-766	--	-766
Sludge Handling	--	-341	341
Investment Tax Credit			
Treatment	--	-408	408
Conveyance	-155	--	-155
Sludge Handling	--	-64	64
2% Annual State Grant	-213	--	-213
Sub Total	4,781	3,575	1,206
10% Coverage	78	--	78
TOTAL	4,859	3,575	1,284

* Costs expressed in thousands of dollars

(2) Cost Basis for On-Site Treatment

It was estimated that costs of constructing on-site facilities for accomplishing a degree of treatment equivalent to that to be accomplished by the proposed POTW would be as follows:

Plant Equipment		$6,400,000
Land		400,000
Sludge Handling Equipment		2,130,000
	TOTAL	$8,930,000

It was anticipated that industrial revenue bond financing would be employed at the same interest rate and repayment schedule previously described. A 7 percent investment tax credit was applied to all capital costs. Furthermore, a depreciation life of 13 years was applied to all capital costs except land. An effective tax rate of 51 percent was also used. The fact that the on-site plant would be in operation 6 months earlier than the POTW was also considered and added an additional $146,000 burden, "present value" basis to on-site treatment.

Results of the 20-year present worth analysis indicated that POTW participation would be 1 to 3 million dollars more costly than on-site treatment. In the absence of mill participation, capital cost of the municipal portion of a resulting 40 mgd plant was estimated by the Regional Consultant to be 2 million dollars greater than its share of a 60 mgd plant with mill participation. Benefit to the community of mill participation showed a 20-year present worth of one million dollars.

D. Summary

Under circumstances where a paper mill discharge constituted one third of the flow to a proposed 60 mgd regional treatment system, costs of on-site treatment of mill wastewaters were estimated to be 1.3 million cheaper than discharging to the publicly-owned treatment works (POTW). Comparative costs were developed around a "present value" analysis over the life of the proposed facility. Repayment of that portion of the anticipated Federal grant covering plant capacity allocated to mill wastewaters represented approximately 75 percent of that differential. Mill participation in the Regional system substantially reduced the capital costs of that portion of the treatment plant allocated for municipal wastewaters.

V UNCERTAINTIES OF SIGNIFICANCE TO POTW PARTICIPATION

A. Introduction

Among the subjective factors which must be weighed in a decision on individual participation in a publicly-owned treatment system are:

(1) The equitable distribution of capital and operating costs among municipal and industrial users

(2) The uncertainty of preliminary cost projections available at the time when commitments for industrial participation must be made

(3) The likelihood of an ongoing good faith working relationship with the public authorities.

Each of these questions poses a potential, if perhaps uncertain, economic liability relative to the construction of on-site industrial facilities.

The experience of one midwestern community in its ill-fated effort to develop a regional system designed to serve two municipal jurisdictions and five pulp and paper manufacturing operations is illustrative. The information contained herein was derived from local newspaper accounts, information contained in mill files, and discussions with personnel at two of the mills involved.

B. Obstacles to Industrial Participation in a Selected Regional System

(1) Design Basis for the Proposed System - In early 1970, engineering analysis was undertaken for the upgrading and expansion of an existing regional treatment system serving two municipalities and discharges from several local paper manufacturing installations. Among the options considered in the proposed expansion was the potential participation of two additional mills. A treatment system for which Federal funding was subsequently sought was designed for the wastewater discharges shown in Table 5.

TABLE 5 ANTICIPATED WASTEWATER LOADS TO THE PROPOSED REGIONAL FACILITY

	FLOW (mgd)	BOD (lbs)	SUSPENDED SOLIDS (lbs)
Municipalities	9.7	11,600	16,100
Paper Mill A	5.0	30,000	25,000
Paper Mill B*	4.2	5,080	14,200
Paper Mill C*	2.2	3,000	13,000
Paper Mill D*	0.75	2,500	5,000
Paper Mill E*	0.75	500	500

*Existing industrial dischargers at the time

The cost allocation of excess capacity designed into the plant, quantified in Table 6, as well as costs associated with the upgrading of the existing sewer system to minimize clearwater infiltration were to become impediments to further industrial participation in the regional system.

TABLE 6 PROPOSED REGIONAL PLANT DESIGN LOADS

	FLOW (mgd)		BOD (lbs)		SUSPENDED SOLIDS (lbs	
	DRY	WET	DRY	WET	DRY	WET
Design Load	40.0	60.0	100,300	117,800	173,600	198,600
Excess Capacity	22.9	42.9	75,320	92,020	126,800	151,800
% Excess Capacity	57	72	75	79	73	76

(2) Negotiation of Contractual Obligations - Starting in March, 1971, representatives of the local mills met with city officials to develop a contract for the treatment of industrial wastes. By late May, an agreement acceptable to the various parties was arrived at. In June, the contract was presented to the Sewerage Commission for approval. Numerous objections were subsequently raised and negotiations continued. By May, 1972, virtually all issues had been resolved with the significant exception of the equitable allocation of payment of the capital costs of that portion of the plant attributable to excess capacity, as well as wet weather capacity and clear water infiltration. The industry's position expressed at the time was principally based upon the premises that:

(1) All of the major industries had submitted to the Sewerage Commission requests for capacity allocations to meet their anticipated requirements through 1990. Thus, existing allocations included any excess capacity they might have required.

(2) In that the excess capacity would be available for future area growth, the cost of such a benefit to the total community should be borne by the entire community and not disproportionately by industry.

(3) Clear water infiltration and wet weather capacity are basically municipal problems which have no relationship to industrial flows, and hence, costs should be borne accordingly.

It was the consensus of paper mill dischargers that those costs, which represented approximately 57 percent of the total cost of the proposed plant, could be most equitably apportioned among all taxpayers in the two communities on the basis of relative property values. Additional support for that position was contained in "Federal Guidelines for the Equitable Recovery of Industrial Waste Treatment Costs."

In June of 1972, the industry was presented with a new contract with the expressed indication that it was non-negotiable. Among its provisions were requirements for surcharge penalties for exceeding designated load allocations and a provision relating to an unconditional commitment to share pro-rata in all additions or improvements to the plant coupled with an unlimited duration of the contract. While these issues were ultimately resolved, they are symptomatic of the atmosphere of distrust which seemed to pervade the efforts to evolve an equitable agreement.

Whereas the earlier proposed contract had a 75 percent government funding commitment set forth as a condition of industrial participation, industry was to be bound by the new contract so long as 65 percent government funding was forthcoming. This requirement persisted into the final agreement. Furthermore, the final agreement required that the industries pay for excess plant capacity in proportion to the ratio of their discharge to the total of those shown in Table 5. In retrospect, this was to be a significant factor in ultimately tipping the economic balance toward industrial on-site treatment.

(3) Cost Escalation - Beyond the question of excess capacity and its allocation, the local industries were also concerned about the use of plant design criteria derived from Recommended Standards for Sewage Works, Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, generally referred to as the "Ten-States Standards". As a consequence, the companies retained an independent consulting firm to develop design parameters tailored to the specific needs of the system, as well as make maximum use of the existing treatment facilities. The results of that appraisal inclusive of treatability studies, is reported elsewhere (6). The contact stabilization activated sludge process and associated sludge dewatering and disposal facilities were estimated to cost 14.65 million dollars. The City's proposed design using the "Ten-State Standards" design parameters resulted in a capital cost estimate, at that time, of 24 million dollars.

In early 1971, the cost of the proposed regional treatment plant was estimated to be 15.5 million dollars. As shown in Table 7, costs doubled by the time final construction bids were received in July 1974. It was the second occasion on which construction bids had been received.

TABLE 7 COST ESCALATION OF THE PROPOSED REGIONAL TREATMENT SYSTEM

DATE	COST (Million Dollars)	SOURCE
Feb. 1971	15.5	Consultant Estimate
July 1971	24.0	Consultant Estimate
March 1973	28.0	Consultant Estimate
March 1973	21.0	Construction Bid
July 1974	32.0	Construction Bid

The initial bids in March 1973 for the proposed facility had been surprisingly lower than engineering estimates. However, the Federal government did not commit grants needed to finance the project, and there was a refusal on the part of one of the municipalities to provide the money in the absence of the Federal grants. As a consequence, the bids had to be rejected. Bids in July 1974 were 10.5 million dollars greater, prompting one municipal official to remark, "We have been forced to permit costs to escalate (since 1973) by 56.7 percent just to obtain a 33 percent federal grant."

However, by that time, the amount of the Federal grant had become an issue. In that not more than 58 percent government funding could be guaranteed, the major industrial discharger exercised its option under the agreement to withdraw from the proposed system and to construct its own on-site plant.

By September 1974, the second largest industrial discharger opted for a similar course of action, citing cost of participation in the regional system as the major factor. It was further reported in the press, though not publicly substantiated by corporate personnel, that among the factors contributing to the decision was a reluctance to make a financial commitment over the 20- or 25-year life of the plant expansion bonds for an aging manufacturing operation which, based upon thinking at the time, might have to be discontinued for economic reasons prior to their amortization.

C. Summary

This case study relates a situation where industry judgment on relative economies resulted in the construction of on-site treatment in lieu of participation in a regional system. This was the case even when in the absence of industrial cost recovery, as much as 58 percent of POTW costs were covered by Federal and state government grants. In this instance, an inequitable allocation of plant capital costs, coupled with significant cost escalation over the course of adminsitrative delays, contributed to that conclusion.

VI THE IMPORTANCE OF AESTHETICS TO PUBLICLY-OWNED TREATMENT WORKS

A. Introduction

Among the factors previously identified (2) as contributing to the greater relative construction costs of publicly-owned treatment facilities has been greater attention to architectural treatments in design of main structures. That is not to suggest, however, that such aesthetic refinements are without merit or are unjustified. Instead it reflects the fact that functional industrial facilities are generally not called upon to meet the same aesthetic expectations which the public holds for facilities owned and operated in its behalf. Furthermore, site specific circumstances may warrant even greater sensitivity to questions of aesthetics, as illustrated by the publicly-owned treatment works in Plattsburgh, New York.

B. Plattsburgh Case Study

In 1973, the city of Plattsburgh put into service a 16 mgd facility serving the municipality, the State University, a local Air Force base, and three pulp and paper manufacturers.

Plattsburgh is located on Lake Champlain and, being only a two and one-half hour drive from Montreal, is a prominent tourist area for Canadians. The community is steeped in history and offers the appeal of tree-lined boulevards, waterfront, and stately homes.

Early studies indicated that the most economical site available for the treatment facility was in the heart of the community on the Saranac River. It was also nearby the Ticonderoga Tower, a major tourist attraction, from which the Vermont shore and most of Lake Champlain are visible. Furthermore, the site was totally visible from one of Plattsburgh's fine residential areas and near a popular boating and recreation area.

As a result, the plant design required particular emphasis on architectural aspects in order that it be aesthetically pleasing and acceptable as an asset to the community. As shown in Figure 1, the resulting plant was designed to mass the support buildings and tankage into one large structure. The completed POTW and the adjacent community are shown in Figure 2. The plant has since won an American Concrete Institute Award for innovative use of concrete and has been described as a trendsetter in the application of textured concrete, functional graphics, and architectural design.

Needless to say, these accolades were not earned in the absence of costs beyond those generally associated with more austere on-site industrial treatment facilities. That is not to suggest, however, that industrial users of the Plattsburgh POTW

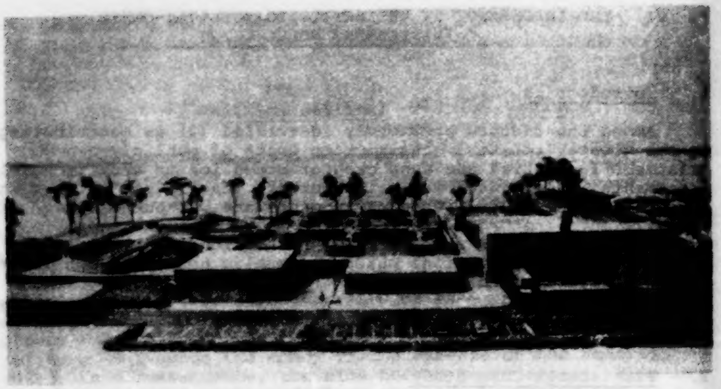


FIGURE 1 ARCHITECTURAL MODEL OF THE PLATTSBURGH WASTEWATER TREATMENT PLANT

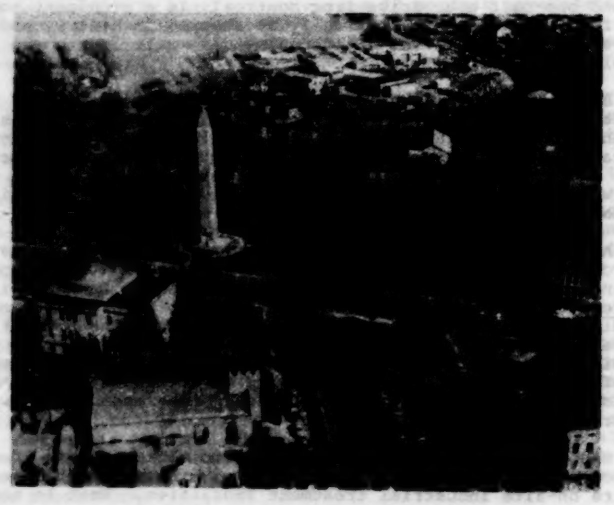


FIGURE 2 VIEW OF THE PLATTSBURG WASTEWATER TREATMENT PLANT FROM THE ADJACENT COMMUNITY

dispute the incremental costs committed to plant aesthetics. In fact, the feeling has been expressed by one that as a major participant in a treatment works having such a high degree of public visibility, corporate, as well as civic, pride required that it have a positive and tasteful appearance.

C. Summary

Public expectations require that publicly-owned treatment works meet minimum aesthetic standards generally beyond those incorporated into functionally equivalent on-site industrial systems.

Unlike most on-site industrial plants which are either naturally compatible with their immediate surroundings or otherwise hidden from view, circumstances exist where public visibility may require that extraordinary measures be taken to assure the aesthetic acceptability of the POTW.

It is incumbent upon local authorities to assure that the public interest and cost-effectiveness are equally served in the design of plants between the two extremes cited above.

VII USER FEE ESCALATION IN PUBLICLY-OWNED TREATMENT SYSTEMS

A. Introduction

Among the concerns cited by industry personnel contemplating participation in a publicly-owned treatment system is the absence of any control in its operation and associated costs which are subsequently reflected in user fees. That is not to suggest any lack of cost consciousness among municipal officials, only that they are perceived to have fewer options for cost control. Their industrial counterparts, on the other hand, have, to a larger degree, latitude to meet many of the incremental operating and maintenance requirements of on-site treatment by drawing upon existing personnel and resources inherent with manufacturing operations.

In any case, user fee escalation needs to be considered in evaluating the relative economies of POTW participation, as illustrated by the experience of one Midwestern mill.

B. Selected Case Study

In the late 1950's an urban boardmill in the Midwest elected to join with the local municipality in the development of a joint treatment system. Among the factors contributing to that decision then, as well as now, was the virtual absence of space upon which to construct on-site treatment beyond conventional in-process control measures.

As part of the agreement, user fees were to be assessed by unit rates on flow, suspended solids and BOD. Moreover, the mill agreed to pay approximately 24 percent of the cost of the plant expansion, in essence purchasing treatment capacity, shown in Table 8, based on a 1980 projected design.

TABLE 8 MILL PURCHASED PLANT CAPACITY

WASTE CHARACTERISTIC	DAILY QUANTITY	% PLANT CAPACITY
Flow	5 mgd	31.2
Suspended Solids	8000 lbs	35.3
BOD	6500 lbs	17.8

By the mid 1960's, the trickling filter operation put on line in December 1962 was upgraded with the installation of activated sludge. As a result in November of 1967, annual capital charges assessed to the mill were increased approximately $3000 to a total of $57,300.

Overall costs for operating, maintaining and administering the publicly-owned treatment works is apportioned among the various users on the basis of waste load. Since the plant became operational in 1962, there has been a continuous escalation of user fees, as shown in Table 9. While one would expect greater costs with the use of activated sludge, user fees nearly quadrupled over the period from 1969 to 1977 in the absence of any major change in plant configuration. Integrated within the flow charge established in 1975 is a $25/million gallon component designated as a collection fee, reflective of growing municipal emphasis and costs in maintenance of the municipal sewer system. A similar $19 component is associated with the 1977 rate. Administration costs have been interpreted to go beyond those directly responsibile for plant management to include proportions of the salaries for the City Manager and other municipal administrative officials.

As shown in Figure 3 total flow to the municipal treatment plant has shown an overall declining trend, with 1977 flow approximately 20 percent less than that of 1969. Suspended solids loadings exhibit a similar trend. Mill contributions of flow and suspended solids remained relatively stable over that time frame. However, mill BOD discharges showed a steady increase as a consequence of increasing production. Even so, total BOD treated at the municipal plant in 1977 was not significantly different from 1969.

Nevertheless, the total operating budget for the municipal plant reflected no such stability, as shown by Figure 4. Between 1969 and 1977, it increased by a factor of nearly three and one-half. The resulting effect upon wastewater treatment costs per

TABLE 9 USER FEE RATE HISTORY

DATE	FLOW/MILLION GALLONS	SUSPENDED SOLIDS/ 1000 POUNDS	BOD/ 1000 POUNDS
December 1962	$14.30	$ 9.20	$ 3.16
March 1965	14.10	11.64	5.14
April 1969	24.52	13.93	7.87
July 1970	30.53	17.10	10.29
September 1972	45.08	23.03	13.20
December 1973	48.63	32.41	13.65
December 1975	103.36	41.82	21.36
September 1977	128.94	53.65	28.00

unit of production experienced by the mill is shown in Figure 5. Furthermore, there is every indication that continued increases can be expected.

C. Summary

Between 1963, the first full year of mill participation in a publicly-owned treatment system, and 1977, costs for wastewater treatment have increased by a factor of nearly 3.5--predominantly over the past ten years. The significance of such an increase does not necessarily lie in its representing an extraordinary event. Instead, it points to the need for thorough and realistic appraisal of a mill's ability to contain cost increases of that magnitude relative to the options available to a municipality operating a publicly-owned treatment system.

VIII JOINT TREATMENT BENEFICIARIES

A. Introduction

The extent to which industry benefits from State and Federal construction grants programs periodically comes into question. At issue is (a) whether individual industrial dischargers reap a dividend at net public expense and/or (b) whether direct dischargers are placed at a competitive disadvantage relative to indirect dischargers.

FIGURE 3 VARIATION IN RAW WASTE LOADS SINCE 1963

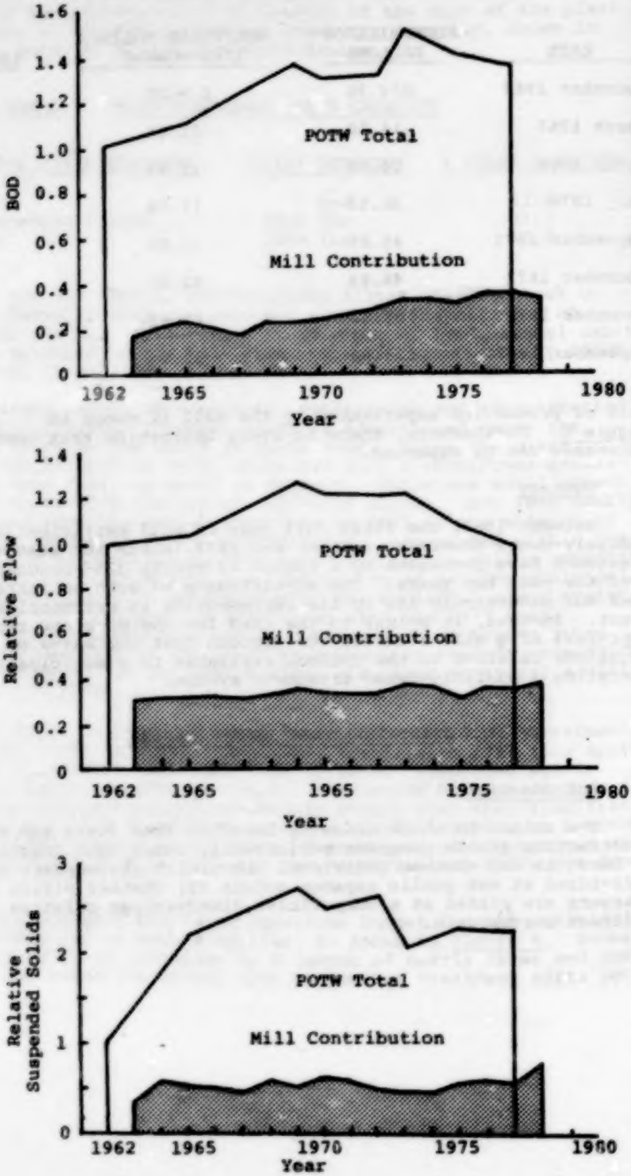


FIGURE 4 INCREASES IN POTW OPERATING BUDGETS SINCE 1962

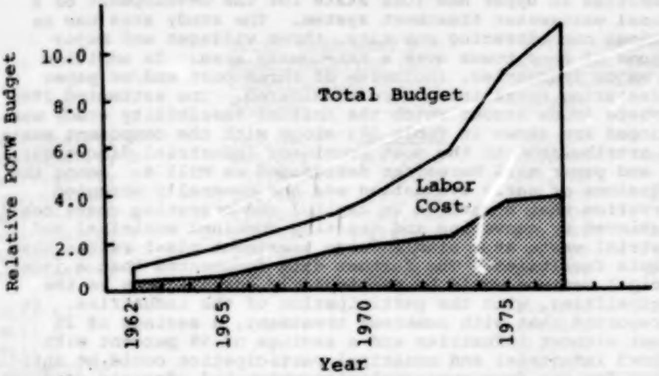
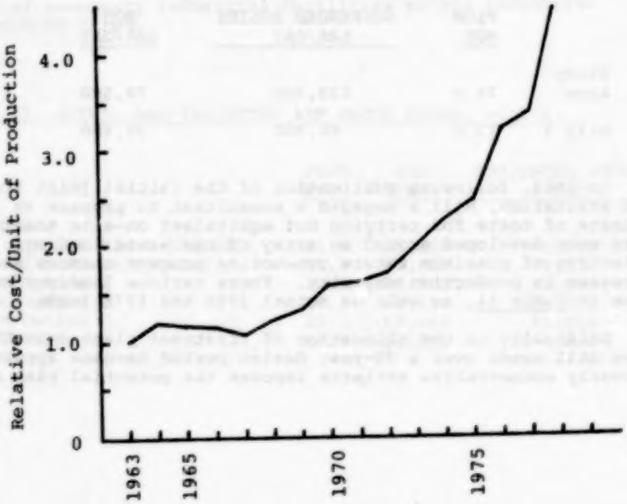


FIGURE 5 CHANGES IN WASTEWATER TREATMENT COSTS/ UNIT OF PRODUCTION SINCE 1963



B. Case Study

In the late 1960's, a study was initiated among a number of communities in upper New York State for the development of a regional wastewater treatment system. The study area was an ambitious one embracing one city, three villages and major portions of four towns over a tri-county area. In addition five major industries, inclusive of three pulp and/or paper manufacturing operations, were considered. The estimated 1995 raw waste loads around which the initial feasibility study was developed are shown in Table 10, along with the component waste load artributable to the most prominent industrial discharger, a pulp and paper mill hereafter designated as Mill A. Among the conclusions of early evaluation was the generally accepted observation that a savings in capital and operating costs could be achieved by conveying and treating combined municipal and industrial waste at a single large treatment plant rather than multiple faciltiies. The further data documented that a joint municipal venture would be particularly advantageous to the municipalities, with the participation of the industries. It was reported that with combined treatment, a savings of 25 percent without industries and a savings of 59 percent with combined industrial and municipal participation could be anticipated for the four municipalities which had adequate existing sewage collection systems (7). Benefits were far less dramatic for municipalities where sewer systems had to be developed. Estimated total annual project costs (projected to 1970) with and without industry particpation are shown in Table 11.

TABLE 10 ESTIMATED 1995 STUDY AREA WASTE LOADS

	FLOW MGD	SUSPENDED SOLIDS LBS/DAY	BOD LBS/DAY
Study Area	38.9	129,700	78,500
Mill A	13.6	86,500	30,400

In 1967, following publication of the initial joint treatment evaluation, Mill A engaged a consultant to prepare an estimate of costs for carrying out equivalent on-site treatment. Costs were developed around an array of raw waste loadings reflective of possible future production process changes and increases in production capacity. These various loadings are shown in Table 12, as well as actual 1966 and 1978 loads.

Difficulty in the allocation of treatment plant capacity to serve mill needs over a 30-year design period becomes apparent. An overly conservative estimate imposes the potential risk of

TABLE 11 ESTIMATED TOTAL ANNUAL PROJECT COSTS*
(Dollars)

	JOINT TREATMENT FOR MUNICIPALITIES ONLY		JOINT INDUSTRIAL MUNICIPAL TREATMENT	
	Construction Grants		Construction Grants	
	Without	With	Without	With
Municipality A	163,000	113,000	90,000	64,000
Municipality B	605,000	497,000	563,000	463,000
Municipality C	55,000	32,000	43,000	26,000
Municipality D	258,000	215,400	243,000	206,000
Municipality E	110,000	69,800	89,000	54,000
Municipality F	231,000	178,400	220,000	169,000
Municipality G	133,600	79,600	91,600	51,600
Municipality H	265,800	185,400	203,100	139,100
Mill A			412,000	271,000
Mill B			109,000	74,000
Mill C			311,500	217,200
Industry D			156,000	110,000
TOTAL	1,821,400	1,370,600	2,531,200	1,844,900

* Total Annual Costs include (a) first year debt retirement cost, and (b) operation and maintenance costs, without State Aid.

In addition, the costs presented in this Table do not include costs of lateral sewers, of individual service connections, or of necessary industrial facilities within industrial property lines.

TABLE 12 ACTUAL AND PROJECTED RAW WASTE LOADS, MILL A

	FLOW MGD	BOD #/DAY	SUSPENDED SOLIDS #/DAY
1966 Loads			
(without Black Liquor)	11.0	25,600	73,500
(with Black Liquor)	11.5	67,000	79,500
Future Option A	10.1	29,900	53,000
Future Option B	18.1	60,500	78,800
Future Option C	20.1	69,000	90,000
Actual 1978	16.6	99,800	164,800

punitive surcharges where allocated capacity is exceeded. On the other hand, an excessively liberal estimate may result in the purchase of capacity that will not find use for many years into the design period.

In May 1969, as the time approached when the various communities and industries included in the joint treatment study area had to make a commitment, previous financial estimates were revised, by an independent consultant retained by the potential system participants. Revised costs, shown in Table 13 reflect (a) a 60 percent Construction Grant and a 30 percent State Operation and Maintenance Grant, (b) a 60 percent Construction Grant Only and (c) the construction of individual municipal systems. In the case of Mill A, costs were apportioned around projected raw waste loads as shown in Table 14.

TABLE 13 REVISED TOTAL ANNUAL COSTS FOR TREATMENT IN JOINT AND INDIVIDUAL SYSTEMS

(Projected to 1972)

	JOINT INDUSTRIAL-MUNICIPAL Cost, $		INDIVIDUAL MUNICIPAL SYSTEMS Cost, $
	Construction and Operating Grant	Construction Grant Only	Const. Grant Only
Municipality A	209,000	236,000	393,000
Municipality B	1,334,000	1,421,000	1,790,000
Municipality C	117,000	128,000	212,000
Municipality D	428,000	446,000	829,000
Municipality E	138,000	156,000	239,000
Municipality F	281,000	299,000	527,000
Municipality G	165,000	181,000	282,000
Municipality H	181,000	199,000	345,000
Mill A	823,000	960,000	
Mill B	130,000	152,000	
Mill C	436,000	507,000	

TABLE 14 MILL A PROJECTED RAW WASTE LOADS

Flow	19.0 mgd
BOD	44,100 lbs/day
Suspended Solids	166,600 lbs/day

Personnel at Mill A carried out a present value cost analysis comparing on-site treatment costs with those of the joint treatment option. For purposes of discussion here, that analysis has been expanded upon to reflect (a) the relative significance of the 30 percent State operating cost grant and (b) 1972 projected costs of equivalent on-site treatment for raw waste levels shown in Table 14. In extending the analysis of cash flows on a present value basis of 10 percent, the various options were analyzed on a 30-year basis. Federal, State and local tax laws applicable in 1969 were used. However, the investment tax credit was not applied. Results are arrayed in Table 15.

TABLE 15 COST COMPARISON OF TREATMENT APPROACHES

	CAPITAL INVESTMENT	ANNUAL COSTS	CUMULATIVE PRESENT VALUE
Joint Treatment with Construction and Operating Grants	200,000	1,031,000	4,042,000
Joint Treatment with Construction Grant Only	200,000	1,168,000	4,431,000
On-Site Treatment Estimate	4,500,000	573,000	5,018,000

At the very best, participation in the POTW would represent an approximate 20 percent cost advantage. In considering the 60 percent construction grant only, the difference is on the order of 12 percent, hardly significant given the uncertainties implicit in the cost estimates. An investment tax credit would reduce the margin even further. In any case, whatever the financial incentives that were derived from the available construction and operating grants, they were insufficient to prompt Mill A's participation in the joint system, given the uncertainties detailed in earlier case studies. Other industries declined as well. The joint treatment system envisioned never emerged.

C. Summary

Economy of scale associated with industrial participation in a POTW represented a substantial economic benefit to the municipalities involved. However, relative to the overall costs of on-site treatment, there did not appear to be sufficient advantage to an industrial dishcarger to compensate for uncertainties implicit in POTW participation--notwithstanding the "benefit" of a significant POTW construction grant. Higher costs for equivalent municipal treatment and tax incentives favorable to investment in privat facilities offset benefits resulting from economy of scale and public funding.

IX NON-ECONOMIC FACTORS INFLUENCING POTW PARTICIPATION

A. Introduction

Without dismissing the importance of economics in the choice to participate in a publicly-owned treatment works, there may also exist a number of potentially compelling external factors. Among these are (a) implicit or explicit regulatory policies, (b) public expectations and (c) a willingness on the part of some companies to accept some economic penalty where doing so serves the community interest.

B. Case Study

In 1969, a Regional Development Association retained a consulting firm with experience in water quality investigative work in the area to conduct a feasibility study for regional wastewater treatment facilities. Three alternative plans were considered for regional treatment:

Plan 1	The provision of wastewater treatment for Municipalities A and B (separated approximately 20 miles), including their industrial waste loads
Plan 2	Including in the former the domestic and industrial waste loads from a third city, Municipality C, nearby Municipality B in an adjacent state
Plan 3	The provision of independent wastewater treatment being carried out by each of the municipalities inclusive of their industrial discharges

Waste loadings for each of the municipalities is shown in Table 1

TABLE 16 MUNICIPAL WASTE LOADINGS INCLUSIVE OF INDUSTRIAL DISCHARGES

CONTRIBUTOR	AVERAGE FLOW (MGD)	MAXIMUM FLOW (MGD)	AVERAGE BOD (#/day)	MAXIMUM BOD (#/day)	AVERAGE SS (#/day)
Municipality A	19.1	38.5	67,600	81,000	43,800
Municipality B	32.75	83.2	73,300	93,150	45,620
Municipality C	4.77	10.0	18,300	22,000	13,500

Among the industrial dischargers was an integrated pulp and paper manufacturing operation, Mill A, in Municipality A and a hardboard manufacturing operation, Plant B, in Municipality B.

A preliminary user based cost allocation system was developed for distribution of costs for a proposed activated sludge plant among the various participants. Capital and operating costs were allocated to four basic waste parameters (a) average flow, (b) maximum flow, (c) average BOD and (d) average suspended solids. The costs of regional intercepter sewers were allocated by maximum flow to each participant in a given line or pumping station. Distribution of total annual costs for the alternative plans after application of appropriate government construction grants is compared with independent costs for major participants in Table 17.

The cost distribution led the consultant to conclude:

> "The total annual cost to each participant of any regional plan is substantially lower (40 percent to 60 percent) than independent total annual costs, except for Mill A. Under the user cost allocation presented, the company contributed large economies of scale to smaller volume users by its participation while paying the lion's share of both the treatment plant and the regional interceptor cost. A more equitable distribution might be devised to recognize that the economies of scale to all participants are in large measure due to the participation of Mill A's effluent."

In any case, the regional benefits were sufficiently clear to prompt a consultant recommendation that "the organizational, legal and financial efforts for a regional system be initiated forthwith by creation of an organization vehicle including A and B municipal and industrial representation.

TABLE 17 COMPARISON OF REGIONAL AND INDEPENDENT TREATMENT COSTS

	INDEPENDENT TREATMENT	REGIONAL SCHEME		
		PLAN 1	PLAN 2	PLAN 3
Municipality A	203,300	91,480	90,163	168,900
Municipality B	1,103,000	616,000	601,859	681,660
Municipality C	322,200	-	209,245	217,928
Mill A	1,115,000	1,205,104	1,177,727	1,151,487
Plant B	1,098,000	244,169	238,227	224,613

The ensuing efforts of community and industrial representatives resulted in the 1971 passage of State legislation creating a Regional Sanitary District embracing a 500 square mile area and having "the assigned responsibility of carrying on a continuous long range program of planning . . . and given the authority to take over, acquire, construct, better, administer, operate and maintain any and all interceptors and treatment works as needed for the collection, treatment and disposal of sewage in such areas, as well as local sanitary sewer facilities over which the board agrees to assume the responsibility at the request of any local governmental unit." Enabling legislation further designated that the District and its Board "shall have all powers which may be necessary or convenient to discharge the duties imposed upon it by law." These powers included, but were not necessarily limited to (a) taxing and bonding authority, (b) acquiring property, (c) accepting federal and state grants, (d) conduct of research programs, (e) construction of interceptor and treatment facilities, (f) contracting with any governmental or other agency and (g) apportioning the cost of these and other activities among the various local units of government within the District.

By July 1972, consultants retained by the District Board had completed a preliminary engineering report. In that same month various treatability and pilot plant studies were initiated. From these a basic process design for the proposed wastewater treatment facility was developed. By May 1973, project costs for alternative wastewater treatment and collection facilities had been estimated. The District recommended (a) construction of a single regional wastewater treatment facility at the location of the existing main treatment facility serving Municipality B and (b) construction of an interceptor to serve Municipality A, as well as two additional district municipalities, D and E. The single plant regional system was considered the most cost effective for meeting state water quality and effluent standards.

In apportioning overall project costs, it is noteworthy that the District was considered to be one geographical jurisdiction.

As such, aggregated costs for wastewater treatment in the District, whether in one or a multiplicity of treatment plants were to be distributed among all users. Thus, cost apportionment for lengthy interceptors connecting various users to the proposed single treatment plant was not limited to those discharging into the interceptor.

At this point, it is appropriate to digress to the circumstances under which each of the two mills considered herein made the judgment for POTW participation.

(1) Plant B - The original choice for plant participation in a publicly-owned system was made in 1970--well before the evolution of the Regional system proposed by the Sanitary District. It was the outgrowth of a series of regulatory confrontations at a time when public concern for environmental quality protection and the attendant response of elected public officials was at its zenith. In general, the atmosphere within the region was one of enforcement actions, litigation and political opportunism. This is not to suggest, however, that the compliance record of Plant B was such that regulatory focus was unwarranted.

In early 1970, Plant B manufactured approximately 200 tons per day of various grades of hardboard (wet process). Associated waste flow, BOD_5, and suspended solids averaged approximately 1.4 mgd, 15,000-20,000 pounds/day, and 8000 pounds/day, respectively. BOD_5 load corresponds to an approximate 1,500 mg/l concentration. However, State regulations required secondary treatment or its equivalent for all discharges into interstate waters. Secondary treatment or its equivalent, by definition, required effluents conforming to concentration limits of 25 mg/l BOD_5 and 30 mg/l total suspended solids. For Plant B effluent, this would have constituted an extraordinary BOD_5 reduction in excess of 98 percent with a corresponding mass discharge of approximately 1.5 pounds per ton of production. The use of a municipally derived concentration based standard for judging the acceptable treatment of high strength wastewaters comes into question in terms of the demonstrated capabilities of control technology and the obstacle it poses to further water conservation efforts. The outgrowth of State regulatory actions, given the limitations to on-site treatment, was a stipulation agreement and supporting court order wherein Plant B agreed:

(1) To divert its sanitary sewage and industrial wastes to the Municipality B waste treatment facility upon completion of necessary interceptor sewers.

(2) To reduce and maintain the volume and strength of its industrial waste discharge at the lowest practicable level by continued production close-up and recycling.

Connection to the Municipal treatment plant was completed in the summer of 1974.

In 1971, the plant contracted with a consulting firm for the conceptual design of an on-site biological treatment system sufficient to reduce effluent concentration to the limits established by Municipality B for treatment without a surcharge. Loading and design parameters, shown in Table 18 reflect a projected production level of 230 tons/day after consideration of the reduction in unit raw waste loadings achieved by in-process measures taken at that time. Achieving the approximate 90 percent BOD_5 reduction was estimated to cost up to $300,000 annually. Treatment plant construction cost (1972) was estimated between 1.3 million dollars and 1.5 million dollars. However, installation of the aerated basin (4 days detention) was deferred. Plant personnel continued to look into in-process options for load reduction. Among these was a physical/chemical separation of organics which pilot study suggested as highly promising.

In 1973, a significant mill expansion was initiated to increase production to 350 tons per day. Thus, at the time the mill was called upon to specify raw waste loads which were to be incorporated into the final design for the proposed Regional system, personnel were faced with the uncertainty of (a) what waste loads would result following the expansion and (b) what performance could be expected from internal raw waste load control technologies which were as yet untried under full scale multi-machine operations. The judgment was made that treatment plant capacity be allotted to the mill as follows (a) Flow - 0.6 mgd, (b) BOD_5 - 15,000 lbs/day and (c) Suspended solids - 1,500 lbs/day.

In 1974, the mill's increased production resulted in average daily effluent discharges of one million gallons, 38,000 lbs BOD_5 and 6200 lbs suspended solids. The physical/chemical separation process was installed full scale, but it was found to be unworkable and had to be abandoned. Moreover, circumstances have since prompted substitution of whole tree chips for roundwood as the raw material furnish--further increasing BOD load. However, in late 1977, internal process equipment was installed which dramatically increased the capability for process water recycling.

In June 1979, average daily waste load discharged to the completed Regional Treatment system amounted to approximately 0.21 mgd, 24,000 lbs BOD_5 and 7800 lbs suspended solids.

In that its discharge exceeds the allotted portion of the treatment works, the question arises as to the plant's vulnerability to punitive surcharges. The participation agreement between the mill and the District allows a monthly excess discharge of 5 percent and a daily excess of 10 percent without penalty or surcharge.

TABLE 18 SUMMARY OF DESIGN PARAMETERS

Design Loading and Conditions	AVERAGE	DESIGN
Wastewater Flow, MGD	1.0	1.2
Influent Wastewater Characteristics		
BOD_5, mg/l	2,760	3,260
lb/day	23,000	32,600
Suspended Solids, mg/l	1,040	1,170
lb/day	8,660	11,700
Expected Effluent Quality	SUMMER	WINTER
BOD_5 Concentration, mg/l	200	300
Suspended Solids Concentration, mg/l	300	350

Where a participant exceeds the allowable excess, it is required to pay an amount equal to three times the operation and maintenance rate except at such times as the District is operating below design capacity. As a practical matter, the District plant is currently approaching design capacity, but sight should not be lost of what is a highly equitable feature of the participation agreement.

In summary, the decision for Plant B to participate in the municipal system may have been an expedient precipitated by regulatory action and the resulting stipulation agreement and court order. That event, however, should not obscure the fact that technological alternatives for achieving mandated effluent concentration limits with on-site treatment left little recourse but to discharge through a publicly-owned treatment works. Having made that commitment, uncertainties related to the effects of future plant expansion and the success of raw waste load reduction frustrated the projection of waste loads for which treatment plant capacity was to be allocated. This occurrence reinforces the desirability that some element of flexibility be built into the POTW participation agreement.

(2) Mill A - Upon completion of the preliminary engineering report commissioned by the District, Mill A, in the summer of 1972, expressed continued interest in participation in the proposed Regional system. However, that interest stopped short of a

final commitment pending further definition of the extent of government construction grants and participation rights.

In terms of assessing the regulatory expectations of any on-site treatment program that might be implemented in lieu of joining the Regional system, it was inferred from discussion with State Agency personnel during August that a 5.0 mg/l BOD$_5$ limitation might be anticipated. In October, there were indications that the Agency was considering upgrading the receiving stream adjacent to the mill from a classification requiring a minimum dissolved oxygen concentration of 3.0 mg/l to one requiring a minimum of 5.0 mg/l. (River modelling efforts carried out up until that time suggested that a 5.0 mg/l dissolved oxygen could not be met even in the absence of a discharge from Mill A, given existing background conditions and sediment oxygen demands.)

In mid November 1972, a meeting of District officials was attended by a staff assistant to a local Congressman who had been prominent in the passage of PL92-500. As reported by the local press, the attorney for the District asked "if EPA was going to adopt a tough policy on issuance of permits for private treatment plants with the thought of virtually forcing industry into such systems as the Regional Sanitary District." The Staff assistant responded that, "It was not the intent of Congress to let EPA personnel use the Federal permit system as a hammer to pound industry into publicly-owned treatment systems."

Approximately three weeks later at a meeting of the District Board, the substance of discussions at a meeting between District officials and the staff at the EPA Regional Office was related. Among the items were incentives for industrial participation in public systems. It was reported, according to media accounts:

> "Standards for industrial users who go it alone are apt to be much tighter than those for municipalities in the same general area. These could be so tight that they would virtually be impossible for industrial users to meet, and by 1977 would probably require costly tertiary treatment of effluents."

and

> "Permits for industrial users to discharge effluents into navigable waters will no longer be issued for long periods of time. Instead, they will be issued for a maximum period of five years with the likelihood that standards will be tightened every five years."

With regard to the public benefit resulting from the industria cost recovery provisions of PL92-500, it was reported that:

> "Some of the monies repaid by industrial users for their 'proprotionate share' of the cost of new treatment

> facilities could be used to reduce capital costs incurred by municipalities for their share to the extent that under some circumstances, municipal capital costs would be entirely absorbed in industrial payments."

It is not intended to suggest here that media accounts necessarily reflect established public or Agency policy at the time. Nevertheless, they are reflective of the atmosphere in which deliberations on the desirability of POTW participation were carried out.

In May of 1973, a consulting firm was retained by the mill to evaluate various treatment alternatives sufficient to meet State effluent limitations. It was estimated that augmenting existing treatment facilities with activated sludge and tertiary solids removal capability (either filtration or chemical coagulation) would pose a total construction cost between 6 and 7 million dollars. Total annual costs were projected at $1,115,000.

Economic analysis indicated that Regional participation would be 15 to 20 percent more costly than on-site treatment. In September 1973, it was announced that Mill A would not join the Regional system. Industrial cost recovery was cited as a principal element of that decision. As reported in the press, a corporate spokesman indicated, "that even at present day interest rates, it's cheaper for us to spend 7 million or 8 million dollars than to take over responsibility for a 17-18 million dollar share of the regional system at no interest." In a subsequent statement, the expense of building the sewer interceptor was cited as the major differential.

The District estimated that the cost of that decision would be an additional cost to the remaining participants of approximately $150-$180,000 per year. As a result, the District (a) requested that the mill furnish the District with the economic and engineering information which had provided the basis for the decision, (b) requested its legal counsel to render an opinion on the District's authority to require those within its jurisdiction to connect to District facilities--if provided and (c) explored various alternatives in cost apportionment.

With regard to District jurisdiction, there is reason to believe that authority might have existed to compel participation. To establish that fact, however, would likely have required prolonged and counterproductive litigation. However, such a determination proved unnecessary.

In an October meeting between District and mill officials, it was indicated that it would cost the mill $250,000 less per year to operate its own plant. In seeking approaches to narrow that gap, the District consultant reported that the capital cost of mill participation could be reduced by approximately one million dollars by placing one of the District pumping stations on mill property. Since the pumping station was needed in any event, the mill would not have been required to construct an additional pumping station in order to connect. Doing so also served to reduce mill operating costs. The District Executive Director further indicated that by adding phosphorous as a criteria for charging users, annual mill operating charges would be reduced by $47,000 (Doing so also placed the financial burden for phosphorous removal more equitably on phosphorous dischargers, rather than system users at large). Incorporating such changes along with subsequent revision of estimated operating costs resulted in an estimated total annual operating cost to the mill of $1,114,200. Subsequent financial analysis by mill personnel indicated that participation with the District would be a break-even situation, though internal memoranda reflect some questioning of District cost estimates. In any event, in December, mill personnel expressed an intent to participate in the Regional system and the formal participation agreement was signed in April 1974.

Overall, it cannot be said that there was any explicit coercion that brought about Mill A's participation in the Regional system. That is not to say that subjective factors were not present which increased the long-term attractiveness of that option. More importantly, in the final analysis, the circumstances leading up to Mill A's decision exemplifies the type of working relationship that must be developed between the public authority and industrial discharger if problems are to be resolved in a manner that best serves the fundamental objective of joint treatment--the accomplishment of effective treatment . . . at the lowest possible cost to all parties.

(3) Emergence of the Regional System - Loadings for which the Regional treatment plant was designed are shown in Table 19. Particularly striking is the relatively modest amount of excess capacity incorporated into the design. The plant configuration provided for activated sludge treatment, chemical addition and flocculation for phosphorous removal, multi-media filtration, chlorination and dechlorination. Vacuum filtration of chemically conditioned sludges is to be followed by incineration.

Construction bids for the system were let principally over the period 1974-1975, with eventual start-up in January 1979. Actual construction costs are compared with late 1973 estimates for a system of somewhat lesser capacity. The dramatic increase is characteristic of the inflationary spiral to which treatment plants built during that period were exposed. Operating cost estimates were even more vulnerable to inflationary pressures. That portion of total annual costs attributable to industrial cost recovery for Mill A and Plant B are also shown in Table 20 and are based on a 30-year repayment period.

In March 1974, the charge of the Regional Sanitary District was broadened to include responsibility for solid waste management. Sensitivity to resource recovery approaches had been

TABLE 19 REGIONAL SYSTEM DESIGN LOADS

	FLOW, mgd	BOD_5 lbs/day	SUSPENDED SOLIDS lbs/day
Municipal Wastes			
Municipality A	23.9	23,700	30,500
Others	3.9	4,500	4,100
Total	27.8	28,200	34,600
Industrial Waste			
Mill A	13.0	42,000	20,000
Plant B	0.6	15,000	1,500
Others	2.5	12,400	5,800
Total	16.1	69,400	27,300
Total Waste Design	43.9	97,700	61,900
Estimated 1979 Levels	35.0	90,700	53,900

reflected in the modification of the original sludge incineration approach in treatment plant design to provide for the use of fluidized bed reactors fueled by prepared municipal refuse. Beyond the resulting fuel economy, advantage was taken of waste heat recovery to partially provide for other treatment plant energy needs. This element of District activity is beyond the scope of this study other than its potential to reduce POTW operating costs. However, its existence is instructive as to the extent to which well conceived and administered Regional programs can be called upon to constructively address broad environmental management needs.

C. Summary

In this case study, the impetus for regional treatment was born out of the projected economic advantage of approaching water quality protection needs on a collective basis. However, the associated economic benefit to municipal users is not necessarily shared by industrial users, dependent upon (a) methods used for cost apportionment and (b) the responsiveness of Regional authorities in bringing about economic advantage to all users. However, any pre-disposition of regulatory authorities toward the development of regional systems may tend to obscure the true economic merits of industry decisions for POTW participation, as would unworkable direct discharge limitations. The Sanitary District established in this case constituted a bold approach to meeting diverse regional environmental needs and institutionally has shown a capacity for doing so.

TABLE 20 COST INCREASES FOR SELECTED PARTICIPANTS IN THE REGIONAL SANITARY DISTRICT*

	TOTAL COST, $			MUNICIPALITY B COSTS, $		
	1973	1975	1978	1973	1975	1978
Construction Costs						
Pumping and Transmission Facilities	16,910,000	26,280,742	27,462,012	9,670,000	14,441,266	16,625,991
Wastewater Treatment Facilities	42,090,000	76,565,000	81,264,470	19,260,000	33,000,366	34,958,768
Total	59,000,000	102,845,742	108,726,464	28,930,000	47,441,632	51,584,736
Operating Costs						
Pumping and Transmission Facilities	230,000	230,000	759,000	128,200	121,529	365,280
Wastewater Treatment Facilities	1,570,000	2,170,000	4,581,000	709,100	905,479	1,626,509
Total	1,800,000	2,400,000	5,340,000	837,300	1,027,008	1,991,789
Total Annual Costs	3,004,300	5,543,404	7,770,768	1,035,100	1,919,899	2,565,057

* 1973 Costs - Reflects construction estimates and costs at a projected 1976 startup.

1975 and 1978 Costs - Reflects bid experience and costs at the projected 1979 startup. Projected costs are based on allocated capacity. Actual charges are based on use.

TABLE 20 COST INCREASES FOR SELECTED PARTICIPANTS IN THE REGIONAL SANITARY DISTRICT*
(Continued)

	MILL A COSTS, $			PLANT B COSTS, $		
	1973	1975	1978	1973	1975	1978
Construction Costs						
Pumping and Transmission Facilities	3,338,600	5,892,592	5,873,903	80,900	241,737	240,981
Wastewater Treatment Facilities	11,576,600	25,325,966	26,922,912	3,644,900	5,505,067	5,965,604
Total	14,915,200	31,218,558	32,796,800	3,725,800	5,746,804	6,206,585
Operating Costs						
Pumping and Transmission Facilities	60,700	68,040	282,221	1,600	3,140	13,026
Wastewater Treatment Facilities	445,900	747,064	1,884,327	130,700	158,916	437,467
Total	506,600	814,104	2,166,548	132,300	162,056	450,493
Total Annual Costs	1,114,200	2,287,490	3,341,497	284,400	410,810	669,405
Industrial Cost Recovery	372,900	773,923	799,976	93,100	142,724	151,971

* 1973 Costs - Reflects construction estimates and costs at a projected 1976 startup.

1975 and 1978 Costs - Reflects bid experience and costs at the projected 1979 startup. Projected costs are based on allocated capacity. Actual charges are based on use.

X SUMMARY

Regional approaches to environmental quality management deserve the encouragement of government, the public and industry where they (a) best serve environmental protection needs and (b) in doing so, represent lowest possible costs to all parties. There is ample evidence to demonstrate the economy of scale benefits which accrue to municipal users of joint industrial/municipal treatment systems. However, circumstances exist where the apportionment of POTW construction and operating costs place a disproportionate, and possibly inequitable, burden upon industrial users of the system. Individuals evaluating POTW participation should be mindful that initial engineering estimates of POTW construction and operating costs are often overly optimistic. Furthermore, in comparing costs with those of on-site treatment, full consideration should be given to tax treatments which might favor one option over the other. It should also be recognized that any economic benefit that might be associated with POTW participation brings with it (a) uncertainties over future rate structures, (b) diminished flexibility in dealing with changing raw waste loads and (c) continued responsibility for the quality of wastewaters discharged to the POTW. The attractiveness to industry of particpation in publicly-owned treatment works is dimished by (a) industrial cost recovery, (b) pretreatment requirements and (c) the assignment of user fees on the basis of domestic waste strength characteristics as a minimum. POTW participation is more clearly called for under circumstances where (a) land is unavailable for on-site treatment, (b) there is little recourse for discharge to a surface water other than through the municipal sewer system or (c) personnel resources are such that diversion of management attention to treatment plant oversight would be unacceptable.

XI LITERATURE REFERENCES

(1) "Combined Treatment of Sanitary Sewage and Semi-chemical Pulp Mill Waste", NCASI Stream Improvement Technical Bulletin No. 42 (October 1951).

(2) "Technical and Economic Considerations Involved in Discharge of Paper Mill Effluents to Municipal Sewerage Systems", NCASI Stream Improvement Technical Bulletin No. 91 (April 1957).

(3) "Industrial Wastes in Municipal Systems", NCASI Stream Improvement Technical Bulletin No. 156 (May 1962).

(4) Cote, D.R. and R.W. Dellinger, "Status of the Effluent Guidelines Revision Program for the Pulp and Paper Industry," 1979 Environmental Proceedings of the Technical Association of the Pulp and Paper Industry (TAPPI).

(5) "Bleached Kraft, Groundwood, Sulfite, Soda, Deink and Non-integrated Paper Mills," Development Document for Effluent Limitations Guidelines. EPA 440/1-76/047-b, Group I, Phase II (December 1976).

(6) Vath, Clement A. and Ranjit K. Advani, "Expanding a Publicly-Owned Treatment Plant to Accommodate Industrial Wastewater: A Case History," presented at the 33rd Annual Purdue Industrial Waste Conference, Purdue University, West Lafayette, Indiana (May 9-11, 1978).

(7) Vonic, M. and J.C. Bumstead, "Hudson River Bend Comprehensive Sewerage Study", presented at the 41st Annual Conference of the Water Pollution Control Federation, Chicago, Illinois (September 22-27, 1968).

Mr. Roberts. Again, we thank you very much, and again, I want to express appreciation for the concise manner and the information you have provided for us.

Thank you very much.

Mr. Marshall. Thank you very much.

Mr. Roberts. We will make an effort to go through the next panel, because we cannot tell what the tieup will be.

So would the environmental panel, Mr. Silverman, Mr. McGauhey, Mr. Barlow, and Mr. Sampson, come forward, please.

Gentlemen, the full text of your prepared statements will appear in the record at this point.

[Statements referred to follow:]

Statement of Larry Silverman, Legislative Director of Clean Water Action Project

Mr. Chairman, my name is Larry Silverman, and I am here on behalf of the Clean Water Action Project, a national citizens' lobby for clean water. Municipal water and waste management systems have been a special concern of Clean Water Action Project for more than ten years. Like some members of this committee, we have been in the sewage treatment business since 1969. This interest grows naturally from the fact that our operating funds come from more than 60,000 small non-tax deductible contributions. Most of these contributions are made by citizens and organizations in their own homes or neighborhoods. Each weekday evening, five nights a week, fifty-two weeks a year, carefully supervised and trained teams of canvassers go door to door in the metropolitan Washington area, and increasingly in other communities as well, talking with citizens about clean water and asking for political and financial support. The public gives generously of both, with the expectation that we will look out for their interests in the water programs which have the most direct impact on their lives. In the last year, more than 100,000 people signed a petition to assure that tax monies which have been appropriated for municipal sewage treatment are not spent wastefully on systems that are inefficient, unnecessarily large or wasteful of energy.

The people who open their homes to our canvassers have four key interests that relate directly to the issues before this subcommittee today.

Our supporters are for clean water.

They are against inflation in the price of water (and waste water treatment). They are, in general, distrustful of the power of special interest groups.

They are for more public education and better training and technical assistance on water and waste management issues.

My comments today relate to the question of industrial cost recovery and other sewage treatment issues. On behalf of Clean Water Action Project and our supporters, I would like to thank the chairman for this opportunity to testify on these important issues.

THE BAD NEWS ABOUT SEWAGE TREATMENT

Recently, the Baltimore Sun ran a six day, front page series entitled: "Clean Waters: A Dream Fades." This series was about the municipal sewage treatment construction grants program, one of the wards of this subcommittee. Day after day the paper was full of depressing statistics, stories of breakdowns, misconceived technologies, mismanagement, boondoggles, and polluted water. The articles created a special problem for our canvassers in Baltimore. The news was so bad that people at the door (and some of our canvassers) began to wonder whether clean water would ever be any more than a dream, an attitude not especially conducive to fund raising. Our answer went something like this: The Baltimore Sun's articles are accurate. There's alot of bad news in the sewage treatment business, so much in fact that we anticipate many newspaper and TV exposes on this subject during the next year. The news is not all bad, however. Mixed in with the failures of the past are some outstanding successes. Innovative and alternative solutions to many of the most pressing problems are in place in a growing number of communities. The task now is to learn from past mistakes and to build on past successes.

We at Clean Water Action Project continue to believe that clean water at a reasonable cost is possible. We view the critiques and exposes on the clean water program as encouraging evidence that the country is learning how to achieve this goal. Sunshine has always been an effective water pollution control.

NEED FOR COMPREHENSIVE REVIEW

Last June, Clean Water Action Project joined with the American Meat Institute, the American Paper Institute, the National Food Processors Association, and the National Forest Products Association in calling for a "thorough congressional review" of joint municipal-industrial waste treatment facilities.

"This review should be aimed at improving the planning, economics, effectiveness, and environmental integrity of federally funded joint treatment systems.

"A final decision on ICR should be made in the context of such a general review of the municipal-industrial interface." (Testimony of Donald G. Kirk of the National Food Processor Association before this subcommitee, June 14, 1979.)

We continue to support this position.

We oppose a simple repeal of ICR. We believe that this committee and its staff should review all of the many subsidies and incentives for industrial waste mangement, with a view to answering the following questions: Does the subsidy encourage waste water treatment methods which result in the conservation of water, energy, and other resources, including money? Are the subsidy programs consistent with one another? Does the subisdy program encourage a cooperative relationship among municipal officials, industries, and consumers?

We fear that the answers to all these questions is no. Congress' continued failure to assess and rationalize industrial waste treatment subsidies is likely to be a major contributor to inflation in the cost of water and waste management.

We urge the subcommittee to join with the congressional committees that write our tax laws in addressing these questions.

PAY AS YOU GO IS THE BEST POLICY

Clean Water Action Project supports the principle that industry—especially the larger companies—should pay its own waste treatment costs. We oppose subsidies that encourage corporations to make waste treatment decisions which have nothing to do with good economics or good engineering. In taking this position we are not anti-industry. On the contrary, we favor greater integration of municipal and industrial waste management, and fully support the provisions of Section 201(e) of the Clean Water Act. This section—virtually ignored by EPA—encourages integrated municipal-industrial waste management facilities which produce revenues in excess of capital and operation and maintenance costs. We believe that with proper planning and cooperation, revenue producing, economically self sufficient facilities are a realistic possiblility. Bacause we see and believe in the great potential of joint municipal-industrial waste management, we oppose any industrial subsidy which encourages the waste of resources, water and capital. We do not agree with the position expressed by the National Association of Manufacturers last year that every city should be served by large, regional waste treatment systems. Sometimes regional systems make sense; sometimes they don't. Sometimes joint systems are cost-effective; sometimes they are not. We need a system of incentives that encourages industry to do what is cheapest for everybody, that gets them into municipal systems when that is cost-effective, and keeps them out when it is not cost-effective.

SPECIAL INTEREST LOBBIES

There is a widespread, if not entirely accurate, public perception of Congress as a place where big companies go to obtain special favors. There is a not inconsiderable danger that this committee's actions on ICR will be seen in this light by many of the investigative reporters who are now focusing their attention on the sewage treatment program. We urge the committee to take care to back up any conclusions it reaches with unassailable economic and public interest analysis.

Clean Water Action Project has pioneered an effort to encourage better cooperation between public groups and industries involved in sewage treatment programs. The appearance of a "giveaway", or cave-in, to the big industrial lobbies would seriously interfere with this effort.

ENCOURAGE BETTER REGIONAL PLANNING

The typical American sewage treatment plant, with or without an industrial contribution, is designed before it is planned. The 208 planning process is usually several years behind the design and construction process. Typically, the system is 90 percent built before any one calculates and distributes any cost. Planning and cost calculations should precede, rather than follow, design and construction. This subcommittee should continue to support 208 planning. Indeed, one of the most successful 208 agencies, in Newcastle County, Delaware, distinguishes itself by fairly dividing user charges and ICR costs among communities and industries.

In many states, including Maryland, New York, and New Hampshire, much of the basic sewage treatment planning was done ten or twelve years ago, when energy was still artificially cheap. These plans should not be carried out.

MORE PUBLIC EDUCATION AND TRAINING

Shortly after the moratorium on industrial cost recovery was imposed in 1977, Clean Water Action Project, the League of Women Voters, and Environmental Action urged the U.S. EPA to fund a pubic education program in all the major industrial cities to bring citizens, municipal officials, industrialists, pollution control professionals, and others together for the purpose of discussing how they might cooperate to improve joint municipal-industrial waste management. Had EPA acted favorably upon this recommendation, in my opinion, the issue of industrial cost recovery would have been settled by now in a way agreeable to most of the interest groups involved. Unfortunately, the EPA, under President Carter, has been reluctant to fund public education and technical assistance programs. Even when the agency has made recommendations to this effect, the Office of Management and Budget has consistently shot them down. President Carter's policy, as expressed by OMB, is at odds with the public education and technical assistance provisions of the Clean Water Act. It is also at odds with President Carter's policy, as expressed by White House Task Forces on Intergovernmental Relations. For example, at the beginning of this year, a White House Task Force, headed by Jack Watson, announced a bold, new policy to assist rural communities take advantage of federal grant programs and comply with federal regulations. At the same time, OMB was trimming 208 funds and eliminating many public participation, public education, and technical assistance programs.

It is unconscionable and—more to the point—unworkable for the federal government to impose complex new regulations and requirements on local government without extensive outreach, training, and technical assistance programs. One of the key reasons for the failure of ICR is the federal government's reluctance to train and educate. EPA would rather write new regulations than explain what they mean, or help people make them work. One of the most enlightened provisions of the Clean Water Act of 1977, Section 214, requiring EPA to set up a continuing program of public education and information on water conservation, land application methods, and recycling, has been honored, mostly in the breach. This subcommittee, and the Congress generally, should inisist that EPA mount a major effort at public education and technical assistance for communities with serious sewage treatment problems. Training needs are especially acute in the area of financial management. Public education is cost-effective.

EPA FUNDING OF INDUSTRIAL CAPACITY SHOULD BE RECONSIDERED

The Congress should seriously consider a phase out of EPA funding of industrial sewage capacity. If there are to be subsidies or assistance to industries, it should be through tax laws or Economic Development programs. An industry which decided to buy into the municipal system would get the same tax breaks and incentives as industries who decide to self treat. Such a scheme might help insure cost-effective decision making.

Another replacement for ICR would be to go back to the system which was in effect prior to 1972: that the industries be required to pay their fair share of local and state capital costs. This system was effective in part because the local and state share was 50 percent, rather than 25 percent, as it is today.

Finally, this subcommittee should consider encouraging EPA to make the existing cost recovery system work as planned to achieve cost-effectiveness, water conservation, and equity.

THE REAL ISSUE IS INFLATION

The real issue today, Mr. Chairman, is inflation—inflation from excessive government spending, from inefficient facility planning, and from poor financial management. Your decision on industrial cost revovery could help fuel or arrest the growing inflation in the price of water. Thank you.

Statement of M. G. McGauhey, Administrator, Water Pollution Control, on Behalf of the American Clean Water Association

The American Clean Water Association has 125 members in thirty states and the District of Columbia.

Our members—The Clean Water Team—represent many disciplines and come from a variety of niches in the economic system.

They include: engineers, equipment manufacturing firms, constractors, builders, developers, farmers, municipal officials, academics, private citizens and citizens' groups, environmental and resource attorneys, environmentalists; in short, all the people whose professinal skills will be required to obtain clean water.

Many of our members helped to write the Federal Water Pollution Control Act of 1972 and the Clean Water Amendments of 1977. Our membership was instrumental in establishing an effective coalition between citizen and industrial groups and aided in writing the Industrial Cost Recovery Legislation which passed Congress last November.

Some of our purposes are:

1. to encourage wastewater and waste management techniques which utilize land treatment, aquaculture, on-site waste disposal, recycling, and other appropriate technologies, which are integrated with other community facilities, which are revenue producing, which incorporate principles of energy and water conservation, and which eliminate the discharge of pollutants;

2. to fight inflation by developing and using cost effective technologies, by encouraging economic competition and by combating the waste of vauable resources;

3. to establish accuracy and reliability in cost accounting and environmental and economic analysis.

Addressing the issue of Industrial Waste, The American Clean Water Association sees vast economic opportunities in waste avoidance, recycling and recovery. However, because of the diversity of our membership, like the Congress, we have not yet arrived at a solution to the ICR Problem. We are studying the issue and will provide you with a formal position in the near future.

In the last analysis, our members may come from different walks of life and represent diverse sectors of the economy, but first and foremeost, ACWA members are environmentalists—and that is why we are here!

City of Hagerstown, Md.—Testimony Before Public Works Committee Relative to Industrial Cost Recovery

Public Law 92-500 which is the National Water Quality Law of 1972 directs that the citizens of Washington County will make a concerted effort to find solutions to provide for water quality.

One of the provisions of this law states that there will be an Industrial Cost Recovery Program which provides for recovery of monies spent in the Grants Programs in support of industrial and commercial accounts.

Our Sewer Authority in Hagerstown, Maryland is oppposed to the Industrial Cost Recovery provision for the following reasons:

A. I.C.R. is inequitable.

1. Corporations are major taxpayers. I.C.R. forces corporations to pay for sewerage facilities twice: once through taxation; twice through I.C.R.

2. There are no provisions in the I.C.R. program to recompense industries if they reduce flow or loading. We maintain that this is unfair. Because of I.C.R., industries are forced to invest in something (that is, wastewater treatment facilities) which

they can never liquidate should the need arise. Please note: If industries are required to pre-treat, then each industry will construct their own facilities which are a tangible investment that can be sold.

B. I.C.R. will be extremely difficult to manage.

1. Industries will have to be monitored closely. Flows must be measured. BOD and SS loadings must be measured. To establish a rate based on a "one time sampling" of an industry is not practical. Flow and loading rates change because of business volume, new technologies, and many other reasons.

2. As changes occur a complicated bookkeeping system will have to be initiated in order to account for and control each industry's reserve capacity so that new industries or residential developments, do not "use" the capacity which was purchased by industries through the I.C.R. system. A similar bookkeeping system will be needed if industries are recompensed for unused capacity.

Allow me to cite two specific industries which discharge into the Hagerstown system; one industry being Mack Trucks, which incidentally is Washington County, Maryland's major industry and Maryland Ribbon Company, another major industry in Washington County.

I cite both of these industries because of the relationship and rapport that has developed between the City and all commercial and industrial accounts in the Hagerstown system. Mack Trucks has worked closely with the Water Pollution Control Department of the City of Hagerstown since 1974 and as a rsult of this relationship Mack will pre-treat their waste before discharge into our system. Mack Trucks discharges cyanide into our system, a potentially toxic discharge, and also cutting oil which has a propensity for coating bacteria in the biological treatment process and increase oxygen demand in the treatment train.

Maryland Ribbon is a classic example of typical industrial waste that causes problems at the treatment plant. Their waste constitutes, a nuisance condition in the various dye colors, plus chemical oxygen demand in the dye make-up.

These two industries as well as all 114 industrial and commercial accounts in the metropolitan area of Hagerstown joined with the Water Pollution Control staff in 1973 in a cooperative venture to initiate an Industrial Waste Program. Simply stated, efforts to remove heavy metals, nuisances, toxics and excessive flows and loadings at the industrial site were taken by the implementation of a City pretreatment code. This caused monies to be spent by the industrial and commercial accounts to pretreat their wastes before discharge into the sanitary sewer system. The staff in the Water Pollution Control Department monitors these discharges both at the discharge site and at the treatment plant.

The City of Hagerstown's Water Pollution Control Department has purchased expert and sophisticated equipment to successfully monitor such a program. In addition, the Water Pollution Control Department has employed two additional staff members to support this effort. As a result of this cooperative effort, Hagerstown's Water Pollution Control Department is permitted by the State of Maryland for land application of our digested sludge because of the heavy metals removal resulting from the Industrial Pretreatment Program.

In addition to the pretreatment of industrial discharges, industrial and commercial accounts pay the same treatment costs as any citizen. The present rate structure was established in our system in 1974. Before implementation of this rate structure, there were 26 different rate structures in the Hagerstown system. Generally, industrial and commercial accounts were provided a lower rate structure than the residential accounts. Today, a uniform equal rate structure is used across the board. That rate is $.90 per thousand gallons treated. There are also provisions in the present rate structure providing that if an industry does not cooperate with pretreatment, various surcharges could and would be imposed. Because of our cooperative efforts, we have not had to impose any surcharges. The City Code also provides for new industrial, commercial and domestic hook-ups. This also is done on an equal and fair basis. The new code eliminated front foot charges and provided for a benefit charge. This benefit charge is assessed at $2.10 a gallon and is a one-time-charge for all Water Pollution Control customers.

In addition to the benefit charge, there exists a $500.00 hook-up fee and a $10.00 administrative fee. This provision of the Code has been applied across the Board to new customers since 1974.

Let me detail this provision of the Code:

A domestic household is allocated 200 gallons per living unit and at a $2.10 charge per gallon, the benefit charge would be $420.00. In addition the customer would be assessed a $500.00 hook-up fee plus a $10.00 administrative fee, making a total contribution to joining the "sewer club" in the amount of $930.00. The $420.00 benefit charge is applied to the Water Pollution Control Capital Improvements Account to provide for existing and future capacity.

Let us cite an example of an industrial application. Suppose Hagerstown was approached at this time by Mack Trucks who discharges 1 MGD (one million gallons per day) into our system. Their benefit charge would be formulated as follows: 1 MGD x $20.10 or $2,100,000 benefit charge plus a $500.00 hook-up fee, plus a $10.00 administrative fee or a total of $2,100,510. The $2,100,000 would be deposited in the Water Pollution Control Capital Improvements Account to provide for existing and future capacity.

In summary, we conclude the following:

I.C.R. impacts local governments.

Pretreatment negates the need for I.C.R. programs.

Pretreatment can be better controlled than I.C.R. because it's enforced locally.

We feel that because of local management, the I.C.R. program is not necessary and would make industries at the local level uncompetitive. At best, we would suggest that if a local government demonstrates its responsibility as outlined above, a provision in the I.C.R. Program should provide for a waiver from participation in the I.C.R. regulations.

CITY OF HAGERSTOWN, MD.—WATER POLLUTION CONTROL PLANT IMPROVEMENTS

STEP 3—CONSTRUCTION—BUILDING AND ERECTION OF A TREATMENT WORKS APPLICATION FOR FEDERAL ASSISTANCE

Statement on industrial cost recovery

The City of Hagerstown is presently soliciting letters from the significant industrial users of the Hagerstown Water Pollution Control facility. Significant industrial user is defined as a contributor of 10 percent of the design flow or 10 percent of the design pollutant loading.

Each of these letters will include the following:

1. A statement which affirms the significant industrial user's intention to pay its portion of the grant amount allocable to the treatment of its wastes.
2. A statement made by the significant industrial user which estimates the period of intended use of the Water Pollution Control treatment works of the City of Hagerstown.

These letters will be submitted as a supplement to this application in the very near future.

Summary of activity as of March 28, 1977, regarding the solicitation of letters of intent from significant industrial users

It has been determined that there are two industrial users of Hagerstown's wastewater treatment facilities which may be categorized as significant in accordance with 40 CFR § 35.925–12. The correspondence between the City of Hagerstown and each of these significant industries is summarized in the following paragraphs:

Date of correspondence	Synopsis	Page
Correspondence with Mack Trucks, Inc.:		
Feb. 22, 1977	Hagerstown requested a letter of intent from Mack Trucks, Inc	I–3, I–4.
Do	Mack Trucks, Inc. acknowledged receipt of the request for letter of intent	I–5.
Mar. 21, 1977	Hagerstown made inquiry to Mack Trucks, Inc. regarding status of letter of intent	I–6.
Apr. 15, 1977	Mack Truck's letter of intent	I–10.
Correspondence with Jefferson Cheese, Inc.:		
Feb. 22, 1977	Hagerstown requested a letter of intent from Jefferson Cheese, Inc	I–7, I–8.
Mar. 10, 1977	Jefferson Cheese responded to Hagerstown's request	I–9.

The following correspondence is offered to exhibit the progress which has been made in our attempts to conform to 40 CFR § 35.925–12. The City of Hagerstown is presently awaiting a reply from Mack Trucks, Inc. Futhermore, the response from Jefferson Cheese, Inc. indicates their intention to continue discharging to Hagerstown's wastewater treatment facilities. Based upon this letter, it is apparent that Jefferson Cheese recognizes their obligation to participate in the Industrial Cost Recovery System and has projected their future discharge accordingly.

CITY OF HAGERSTOWN, MD.,
WATER POLLUTION CONTROL,
February 22, 1977.

Re Industrial Cost Recovery System.

MR. RICHARD J. WALLA,
Plant Engineer, Mack Trucks Inc.,
Hagerstown, Md.

DEAR MR. WALLA: City of Hagerstown Water Pollution Control Department is involved in a capital improvements program to improve its sanitary sewer system and Water Pollution Control Plant. We are seeking federal and state aid for these improvements under the Municipal Wastewater Treatment Works Construction Grants Program. Federal regulations require that, in order to receive grant assistance, the City of Hagerstown must develop and maintain an Industrial Cost Recovery System. Furthermore, these regulations require that our grant applications include signed letters of intent from each significant industrial user to pay that portion of the grant amount allocable to the treatment of its waste. Each such letter must also include a statement of the industrial users intended period of use of the treatment works.

Based upon the documentation in the Antietam Basin 201 Facilities Plan, Mack Trucks Inc., is a significant industrial user as defined in the applicable federal regulations. Therefore, we respectfully request that Mack Trucks Inc. provide this office with the above mentioned letter of intent. If such a letter cannot be promptly forthcoming, we respectfully request that you acknowledge receipt of this letter and advise as to when we may expect your letter of intent. Hopefully this documentation will suffice in the interim so that we may continue to actively pursue the above grants.

Enclosed are excerpts from the Antietam Basin 201 Facilities Plan and applicable federal rules and regulations. We hope that these materials may be of use to you. Please do not hesitate to contact us if we may be of further assistance in providing additional information or materials.

You may be assured that we will keep you advised and seek your recommendations during the development of our Industrial Cost Recovery System. We are most appreciative of your understanding and cooperation in this, as in all, matters.

Very truly yours,

M. G. MCGAUHEY,
Administrator.

MACK TRUCKS, INC.
Hagerstown, Md., February 22, 1977.

WATER POLLUTION CONTROL,
Hagerstown, Md.
(Attention: Mr. M. G. McGauhey, Administrator)

DEAR MR. MCGAUHEY: I wish to acknowledge receipt of a letter from you dated February 22, 1977 in reference to an Industrial Cost Recovery System.

As stated in our meeting as of this date, a letter of intent will require Corporate clearance and within approximately two (2) weeks, we should be able to establish when such letter can be issued. I personally cannot commit the Company to any given time period.

Sincerely yours,

R. J. WALLA,
Plant Engineer.

CITY OF HAGERSTOWN, MD.,
WATER POLLUTION CONTROL,
March 21, 1977.

Re Letter of Intent Concerning Industrial Cost Recovery.

MR. RICHARD WALLA,
Plant Engineer, Mack Trucks, Inc.,
Hagerstown, Md.

DEAR MR. WALLA: We respectfully request that you please inform this office of the current status of our request for a letter of intent regarding the pending Industrial Cost Recovery System of the City of Hagerstown. This request was made in our correspondence dated February 22, 1977 and was acknowledged by your office in a letter bearing the same date.

This letter of intent is of crucial importance to the award of federal construction funds, because it must be included in our most recent grant application. At the present time these applications are complete except for the aforementioned letter of intent. The omission of this letter has caused much concern at the Environmental Protection Agency, which in turn, has resulted in a halt to any further review of Hagerstown's project proposals.

In the past, we have been pleased with the cooperation exhibited by Mack Trucks, Inc. and we hope that you will be able to assist the City of Hagerstown in your usual manner by lending any possible support to this matter.

If we can be of any further assistance to you in expediting the transmittal of the referenced letter, please contact the Water Pollution Control Office. Thank you very much.

Very truly yours,

M. G. McGauhey,
Administrator.

City of Hagerstown, Md.,
Water Pollution Control,
February 22, 1977.

Re Industrial Cost Recovery System.

Mr. Bruce N. DeStafeno,
President, Jefferson Cheese Manufacturing, Inc.,
Hagerstown, Md.

Dear Mr. DeStafeno: City of Hagerstown Water Pollution Control Department is involved in a capital improvements program to improve its sanitary sewer system and Water Pollution Control Plant. We are seeking federal and state aid for these improvements under the Municipal Wastewater Treatment Works Construction Grants Program. Federal regulations require that, in order to receive grant assistance, the City of Hagerstown must develop and maintain an Industrial Cost Recovery System. Furthermore, these regulations require that our grant applications include signed letters of intent from each significant industrial user to pay that portion of the grant amount allocable to the treatment of its waste. Each such letter must also include a statement of the industrial users intended period of use of the treatment works.

Based upon the documentation in the Antietam Basin 201 Facilities Plan, Jefferson Cheese Manufacturing, Inc. is a significant industrial user as defined in the applicable federal regulations. Therefore, we respectfully request that Jefferson Cheese Manufacturing, Inc. provide this office with the above mentioned letter of intent. If such a letter cannot be promptly forthcoming, we respectively request that you acknowledge receipt of this letter and advise as to when we may expect your letter of intent. Hopefully this documentation will suffice in the interim so that we may continue to actively pursue the above grants.

Enclosed are excerpts from the Antietam Basin 201 Facilities Plan and applicable federal rules and regulations. We hope that these materials may be of use to you. Please do not hesitate to contact us if we may be of further assistance in providing additional information or materials.

You may be assured that we will keep you advised and seek your recommendations during the development of our Industrial Cost Recovery System. We are most appreciative of your understanding and cooperation in this, as in all, matters.

Very truly yours,

M. G. McGauhey,
Administrator.

Jefferson Cheese Manufacturing, Inc.,
Hagerstown, Md., March 10, 1977.

Mr. M. G. McGauhey,
Administrator, Water Pollution Control,
Hagerstown, Md.

Dear Mr. McGauhey: After carefully reviewing the proposed Federal standards as outlined in the Antietam Basin 201 Facilities Plan we can see no reason why we cannot meet the proposed standards.

By mid 1980 we plan to reduce our whey discharge to less than 5 percent of its current volume. I would also estimate that by late summer of 1977, we plan to reduce the flow by 30 to 50 percent. We intend to accomplish this by:

1. Giving the whey to local farmers for animal consumption.

2. By spreading whey on farmland as a fertilizer, (as we discussed).

3. By changing our whey recovery system within the plant so that more whey is recovered before it is discharged.

4. By manufacturing Rigatone cheese—a whey by-product, (reducing the solids).

I might also add that we have already started neutralizing our cleaning and waste water so that the effluent is within your proposed PH limits. We have also added some new equipment that is recovering fat that was previously lost to the sewer.

If we may be of further assistance or you have any questions do not hesitate to contact us.

Respectfully yours,

Bruce N. DeStafeno, *President.*

Mack Trucks, Inc.,
Hagerstown, Md., April 20, 1977.

Mr. M. G. McGauhey,
Administrator, Water Pollution Control,
Hagerstown, Md.

Dear Mr. McGauhey: Attached is the Mack Trucks, Inc. letter of intent pertaining to the continuing use of the Hagerstown sewage facilities.

Very truly yours,

R. J. Walla,
Plant Engineer

Enclosure.

Mack Trucks, Inc.,
Hagerstown, Md., April 15, 1977.

Mr. M. G. McGauhey,
Administrator, Water Pollution Control,
Hagerstown, Md.

Gentlemen: In compliance with the requirements of 40 C.F.R. 35.925-12(a), Mack Trucks, Inc. intends to pay such portion of the grant amount awarded to the City of Hagerstown under the Municipal Water Treatment Works Construction Grants Program as may be allocable to the treatment of wates contributed to the City of Hagerstown sewage treatment system by Mack Trucks, Inc.

It is anticipated that until the year 1983, Mack Trucks, Inc. will contribute waste flow to the City of Hagerstown sewage treatment system at approximately the same levels as at the present time, that is, 1,000,000 gallons per day or 12 percent of the present sewage treatment capacity. it is expected that in 1983 Mack Trucks, Inc. will be able to reduce its waste flow to the Hagerstown system by 65 percent to about 350,000 gallons per day or slightly more than 4 percent of the sewage treatment capacity.

Very truly yours,

F. J. Kerber,
Vice President, Manufacturing.

BIOGRAPHICAL INFORMATION ON MILTON G. (MIKE) McGAUHEY

Mike McGauhey 1973 to date, Administrator of the Water Pollution Control Department, City of Hagerstown, Maryland, is directly responsible for the administration, management, operation and maintenance of the City of Hagerstown Water Pollution Control Plant and Collection System and other related water quality management tasks.

Mr. McGauhey was born in Saint Joseph, Missouri, where he attended the elementary and high schools and was graduated from Taft College with a B.S. degree in Political Science.

Mr. McGauhey served in the U.S. Army 1941-1969, retiring with the rank of Lt. Colonel.

During his tenure as a municipal government employee, he has exhibited those administrative skills which specifically relate to grantsmanship, effluent permitting, and regulatory procedures of local, state, and federal agencies. He has also been instrumental in effecting various items of legislation.

Mr. McGauhey has applied creative solutions to administrative and technical problems such as the utilization of in-house personnel to relieve a sewer connection moratorium; the design, construction, and operation of an innovative Odor Control Project; a force-account Sewer System Evaluation Survey; an inter-agency agreement for Facilities Planning and its implementation. Mr. McGauhey was appointed Plan Administrator for the inter-governmental Antietam Basin 201 Facilities Plan. This Plan is a joint effort between the City of Hagerstown and Washington County to plan for the provision of sanitary sewerage service for the City of Hagerstown, the towns of Williamsport, Smithsburg, and Funkstown, certain areas under the jurisdiction of the Washington County Sanitary District, and other areas within Washington County.

In 1974, Mr. McGauhey was appointed by Governor Marvin Mandel to the Maryland Board of Certification for Water and Wastewater Operators.

He is Chairman of the Water Quality Planning Committee of the Tri-County Council's Technical Advisory Committee. This Plan, which is mandated by the Appalachian Regional Commission and the Economic Development Administration, U.S. Department of Commerce, is designed to help meet the developmental needs of Western Maryland.

He is Chairman of the "208 Upper Potomac River Basin Joint Public Advisory Council and Governmental Policy Committee" and also Director of the Water and Waste Operator's Association-Western Maryland Section.

Mr. McGauhey is a member of the Water Pollution Control Federation, the American Clean Water Association, the Water and Waste Operators Association of Maryland, Delaware, and District of Columbia, the Retired Officers Association, the Hagerstown Lions Club, and also attended and taught numerous courses, seminars, and workshops relative to water pollution control.

Mr. McGauhey is married and has two sons. He and his wife, Virginia, reside on South Mountain at Eagle Forge Farm.

STATEMENT OF TOM BARLOW, NATURAL RESOURCES DEFENSE COUNCIL, INC.

The Natural Resources Defense Council strongly supports passage of H.R. 6667, a bill to amend the Federal Water Pollution Control Act. While we support the entire bill we want in our testimony before you today to speak particularly to the reauthorization of Section 208 of the Act and the Rural Clean Water Program.

Section 208 authorizes the management framework by which municipal discharges, point source and nonpoint source pollution control planning and implementation of control strategies will be combined. The Environmental Protection Agency's Section 208 work in the area of nonpoint pollution control has proceeded slowly over the past eight years. While the Agency has concentrated its attention on municipal discharge and point source controls. Yet in recent years states have begun to work on the comprehensive planning called for in the Act and nonpoint sources are being addressed, particularly agriculture, construction, forestry, mining and urban runoff.

Nonpoint source pollution in the nation's waters is extremely serious. Nonpoint pollution controls must be implemented if we are to have clean waters. In the case of sediment, one of the major nonpoint pollutants, not only must the erosion sources be controlled for water quality purposes but soil losses are threatening future cropland productivity in various parts of the nation, according to General Accounting Office studies.

The following facts and examples illustrate the significance of nonpoint influences on water quality:

Sediments from nonpoint sources are estimated to be 360 times the quantities discharged from municipal and industrial point sources after treatment, and agriculture contributes over 50 percent of all sediment loadings.

Acre for acre, construction activities are the foremost contributor of sediment, averaging 1,100 tons per acre per year.

Biochemical oxygen demand (BOD) and nutrient loadings from nongoing sources (feedlots, landfills, agriculture) are approximately 5 to 6 times loadings from municipal and industrial point sources.

By 1981, BOD levels from untreated urban runoff are projected to equal the BOD levels in treated effluent from municipal plants.

Few data have been gathered nationally on toxic metals, but studies in urban areas have shown that concentrations of toxic metals in runoff are many times greater than concentrations in sewage.

Outside urban areas, the runoff from past mining operations is the major contributor to toxic metal concentrations in streams.

A 1977 report by the General Accounting Office on controlling nonpoint pollution sources made these statements:

Nonpoint sources of water pollution—sediment, acid mine drainage, pesticides, and other pollutants carried into streams by runoff from rainstorms—currently product more than half of the pollutants entering the nation's waterways.

If not controlled, nonpoint pollution will prevent attainment of national water quality goals and will continue to grow in significance as point sources are brought under control.

To date, progress in the control of nonpoint sources has been minimal.

The best way to control nonpoint pollution is proper management of the land.

EPA should do more to prevent nonpoint pollution by collecting data, eliciting help from other agencies, developing legislative proposals for more resources, and placing management of the program at a higher level.

State and local agencies planning solutions to control nonpoint sources are not using adequate data for planning, and they cannot collect the necessary data because of program constraints due to emphasis on controlling point sources.

In reauthorizing Section 208 we hope that the Committee will give strong direction to EPA to raise nonpoint pollution control to a very high priority with particular emphasis on developing the strategies and program outreach to ensure that state, local governments and finally the responsible public fulfills this important water quality task.

The Rural Clean Water Program authorized in the 1977 Amendments to the Act has had a difficult time being launched. We would like to commend USDA and EPA as well as the respective Committees of Congress for excellent regulations which were issued for this program in the fall of 1979. The emphasis on cost sharing of water pollution control efforts on farms through comprehensive long-term installation and operating agreements if a vitally important route to travel if we are to achieve water quality goals in farming areas. We look forward to supporting the joint efforts of all who are involved in the efficient disbursement of RCWP funds and effective administration of this program.

In closing we would like to commend the Committee for excellent oversight hearings on the 208 program held last summer. The record of these hearings which we recently reviewed will be of great assistance in working towards the Clean Water goals of the Federal Water Pollution Control Act.

Thank you.

[From Business Week, Feb. 25, 1980]

INDUSTRY CAN'T DO IT ALL

Since the Clean Water Act was passed in 1972, U.S. industry has achieved a notable record in helping clean up the nation's waterways. But the Environmental Protection Agency, which carriers out the act, has been piling most of the responsibility for clean water on business while largely neglecting other serious sources of pollution: municipal sewage and runoff from farms and urban construction projects. The EPA approach is neither fair nor effective. The agency ought to make the same demands of cities and other polluters that it makes of business.

Since 1972 industry has spent upwards of $21.5 billion on equipment to rid lakes, rivers, and streams of such common pollutants as bacteria, grease, oil, algae, and solid particles. Now the EPA is ready with a new round of regulations aimed at reducing small concentrations of toxic substances in waterways.

These regulations, of course, will impose new—and inflationary—costs. But meanwhile, municipal sewage and farm and construction runoff threaten to undo the progress industry has already paid so heavily to make.

While 90% of industrial companies that discharge wastes into streams have met 1977 clean water standards, only 30% of municipalities have done so. But rather than move effectively to combat the sewage and runoff problems, the EPA is actually asking for less money to cope with them in its 1981 budget—at the same time that it is demanding more from business.

The EPA has always been tougher on industry than on other polluters, partly because it is easier to force compliance. But that is hardly an excuse for presenting industry with another costly round of cleanups while largely overlooking the pollution of others. If the goal is clean water, all pollution should look the same.

[From the Journal of Soil and Water Conservation November-December 1979]

THE UNFINISHED SOIL CONSERVATION TASK

According to a report released in November 1979 by the director-general of the United Nations Food and Agriculture Organization, about 400 million people around the world now suffer from serious malnutrition; and "even if we make the most enormous efforts to increase food and agricultural production," about 250 million will still be starving by the year 2000.

In the years ahead, to meet our nation's energy needs, the renewable products of the land are going to be turned to as energy feedstocks, whether in wood-burning facilities for home and industry, or to produce the ethanol and methanol for transportation.

Yet in looking ahead at our efforts to fulfill these demands for food and energy, there is cause for deep discouragement with prospects for success in safeguarding our resource base so that production can be sustained over time. I am discouraged because our record of performance in fulfilling conservation responsibilities is not only extremely poor, but the agency of government responsible for meeting conservation needs, the U.S. Department of Agriculture (USDA), is not taking the lead in forthrightly laying before the American people the dismal facts. This timidity does not portend well for the future condition of the resource base as we move to boost production in coming years.

On the issue of conservation of topsoils let me illustrate USDA's waffling. Soil scientists estimate that for deep soils, losses of up to five tons per acre of topsoil are tolerable without sacrificing long term productivity. But over the past two years, when senior USDA officials have talked about the erosion situation in public forums, they have often cited an annual national soil loss average of 4.8 tons per acre. So where is the soil resource problem? Why are we worrying about soil erosion?

Let's look at the real picture. Topsoil erosion on the nation's farms has reached crisis proportions. This 4.8 tons per acre soil loss estimate, which comes from the Soil Conservation Service (SCS), is phenomenally understated. Sixteen percent of the assessed acreage is hayland on which erosion is negligible. The SCS assessment is based on estimates using the universal soil loss equation, which focuses on rainfall-induced erosion. Erosion from snowmelt and improper irrigation techniques can be extremely serious, but is not accounted for in the soil loss analysis.

To be added to these water-induced losses are the losses from wind erosion, which in the 10 Great Plains States average 5.3 tons per acre. Soil losses from wind erosion vary from 1.3 tons per acre in Nebraska to 14.9 tons per acre in Texas.

In short, for tilled acres, soil losses are at emergency levels. According to statistics compiled by the General Accounting Office (GAO), losses are higher per acre today than in the Dust Bowl years of the thirties. The Senate Agriculture Committee and the GAO report that soil losses on cropland are particularly alarming in West Tennessee, northern Mississippi, West Texas, eastern Washington, Illinois, Iowa, and Missouri. Moreover, of the nation's rangeland, 149.7 million acres (39%) are losing soil at an unacceptable rate and are in need of conservation treatment.

The statistics go on and on, and they are shocking. About 4.8 billion tons of soil are eroded from the nation's agricultural areas each year. According to testimony by the SCS administrator before Congress last year, the agency's program results in a billion tons of soil not being eroded. Without getting into a discussion of how much of the 4.8 billion tons is a "tolerable" loss, let's just say that with today's level of effort only 25 percent of the erosion control job is being accomplished. USDA platitudes, conservation rhetoric, and mere lip service in the face of such appalling losses are even more shocking than the statistics. The situation is not unlike that of a patient suffering from pneumonia whose doctor keeps diagnosing the sickness as a common cold.

For the extra levels of effort needed to control the 75 percent of erosion losses not now being controlled, a new doctor is needed. With the rate at which the soil is succumbing, with the phenomenal stresses that loom in the years ahead, we may not have time to try to wish wisdom and competence into this agency if resource and productivity disasters are to be headed off.

For the nation we must set a policy of bringing soil losses within acceptabl limits, just as we have set such policies for air and water pollution. Then we must give the task to an agency that will do the job, on a continuing basis, not on the knee-jerk basis by which it has been addressed in past decades when weather stresses and unwise cropping practices combined to create the erosion catastrophes of the thirties, the fifties, and the seventies.

Conservation practices must be applied continuously so when stresses occur the soil stays where it belongs. Periodic, after-the-loss application of practices is not the route to follow in coming years. When the soil goes—and it is going every season at a continuingly high rate—by definition it is too late for conservation to prevent the wasting.

The agency responsible for achieving production goals in our society may very well not be the right agency to help the nation achieve conservation goals. That is a two-horse effort that may be just too much for one agency to handle.

Here is what is happening because of USDA's failure to deliver the necessary conservation results even through it has the conservation mission:

The sloppy operator influences the practices of the entire community. Others see such operators profiting from shortcuts in proper land management practices and follow the lead of such operators to the bank (whether to make a deposit or repay a loan). In fact, nationally one could say that the increments of extra production that come into markets from such flogging of the land tug down prices so that normally prudent operators are slowly pulled by economics into an unwise, all-out production effort, with a maximum of shortcuts that deal death to resource quality.

When there is a vacuum in the program and administrative structures to get the needed conservation job done and keep getting it done, other agencies begin to receive the politicial directives to fill the vacuum and get the job done. Either the political leadership creates a totally new structure to do the comprehensive work that is needed, or these leaders direct a takeover of existing units and redirect their efforts in the broader, more thorough task that is needed. Creation of the Environmental Protection Agency (EPA) in the early seventies exemplifies the first option. The recent executive reorganization effort is an example of the second option. This second option, although recently put behind us, could very well be returned for consideration in the next few years.

What role does USDA have in conservation? To be sure there have been general directives in conservation legislation over the years beginning with the Soil Conservation and Domestic Allotment Act. There are the assistance funds that are delivered on operator request.

But let's expand the question. What role does USDA have in creating the conservation crisis? When the answers start flowing to this question we get a better perspective on what the government should do to remedy the situation because in many respects the government is at the root of the crisis.

The government has worked hard to create the mammoth markets for America's production both at home and abroad. We ship abroad over 50 precent of our production, in no small part due to the effective sales work by USDA. In short, without the demand from these markets, there would be less farming and less stress on the land.

The government provides the financial backups in loans, guaranteed prices, and numerous other economic support programs to keep farms producing. Quite simply, without this support many farming operations would have ceased long ago, and the land would be protected in a natural state. But on this point it can be asserted that the barely break-even backstop of support does not cover the costs of conservation. This support for farms nationally enables such an outpouring of production that prices are kept down to cost-of-production levels that do not cover costs of conservation. In the face of strong price competition in commodity supplies that the govenment has fostered, operators then expand to boost their paper-thin profit margins or haul themselves out of deficit. As units become larger, operators take conservation shortcuts because of time constraints or to raise margins. It is a vicious circle from a conservation perspective in which the government is a key link.

The water resources development work of the federal government in this century has brough into agricultural production tremendous acreages across the nation. The effect of the production from these millions of drained bottomland and irrigated acres has been to bring market prices down and make the costs of conservation that much more onerous to bear. Over 75 percent of the agricultural production on irrigated acres in Arizona, for instance, is in price-supported crops.

Providing these perspectives is not to argue with the programs. Accepting them as givens, the question before us is what steps do we take to ensure that the economic rewards they provide do not also foster continual resource wasting.

A shift of conservation authority will not occur precipitously. There will be few up-and-down fights. The shift will occur gradually as the political structure realizes that the agency responsible for conservation really does not want to propose comprehensive solutions to remedy current program and administrative shortfalls.

As the political structure realizes that the needed changes in the nation's current inventory of conservation efforts are not going to be proposed by the farming community or its representative agencies, the political structure will look elsewhere for proposals for legislative change to effect conservation. And changes, if proposed, must ensure that past program mistakes from an environmental viewpoint are not repeated if the environmental community is to support the proposals. The general authorities of Public Law 566 and the Resource Conservation and Development Act have been used by local and federal units to engage in such destructive or useless work from the standpoint of today's pressing conservation priorities that many environmental groups happily side with the Office of Management and Budget in cutting the budgets of these programs to the bone.

The shift in conservation authorities has already begun because of agriculture's acquiescence in not successfully coping with the 75 percent of the conservation effort that is needed. It will continue as long as the conservation product measures up so deficiently year in and year out.

STATEMENT OF NEIL SAMPSON, EXECUTIVE VICE PRESIDENT NATIONAL ASSOCIATION OF CONSERVATION DISTRICTS

Mr. Chairman, members of the Committee, I am Neil Sampson, Executive Vice President, National Association of Conservation Districts. Our association represents the nearly 3000 conservation districts in the 50 states, Puerto Rico and the Virgin Islands. Conservation districts are responsible for developing and carrying out plans for the conservation of the soil, water, and related resources within their boundaries. Districts are working with over 2½ million cooperating landowners and are implementing conservation plans on over 608 million acres of privately owned lands.

Because of the close relationships between soil conservation and water quality, conservation districts have become very much involved in the water quality management planning process under provisions of Section 208 of the Federal Water Pollution Control Act. In virtually all states, conservation districts and state soil conservation agencies assisted with the development of the agricultural and silvicultural portion of the 208 plans. In 41 of these states, they entered into formal contracts with state water quality management agencies to develop portions of the 208 plan.

Our testimony today will concentrate on those provisions of the act of primary interest to conservation districts.

In many states, state soil conservation agencies and conservation districts have been named as the management agency for implementation of the agricultural portion of 208 plans. The costs of implementation of these plans will be considerable, including the costs of administration. For these reasons, we would encourage you to extend the authorization of Section 106(a)(2) for an additional two years. Without this authorization the ability to implement 208 plans will be sharply curtailed.

Although most states are well along in developing 208 water quality plans, this planning process was envisioned, and we believe correctly so, as a continuing planning process, concurrent with implementation of such plans. Monitoring and evaluation of the results of implementation plans may show the need for adjustments of implementation programs over time.

Therefore, we believe that the authorization of appropriations in Section 208(f)(3) should be extended, at least through FY 82.

Section 208(j) is the most important provision of the Water Pollution Control Act for implementation of the plans for the control of nonpoint sources of pollution. There is the potential for at least 100 projects identified through the 208 planning process. Much work has been done by conservation districts and others in preparing plans and getting ready to implement this section. Under provisions of the Agricultural Appropriations Act of 1979, USDA will be conducting an experimental program similar in many respects to that envisioned in 208(j). If this experimental program proves successful, there will be a need for 208(j). We strongly urge you to extend Section 208(j)(9) as outlined in H.R. 6667.

The Clean Lakes Program authorized by Section 314 is proving to be a useful way to implement nonpoint source pollution control plans upstream from bodies of fresh water. Several projects have been initiated under this section in various sections of the country. We urge you to reauthorize appropriations for this section.

We thank you for this opportunity to present our views on this bill and will attempt to answer your questions.

Mr. ROBERTS. Please proceed.

TESTIMONY OF AN ENVIRONMENTAL PANEL, INCLUDING: LARRY SILVERMAN, DIRECTOR, CLEAN WATER ACTION PROJECT; MICHAEL McGAUHEY, ADMINISTRATOR OF WATER POLLUTION CONTROL, CITY OF HAGERSTOWN, MD., REPRESENTING AMERICAN CLEAN WATER ASSOCIATION; TOM BARLOW, NATURAL RESOURCES DEFENSE COUNCIL; AND NEIL SAMPSON, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF CONSERVATION DISTRICTS

Mr. SILVERMAN. Mr. Chairman, my name is Larry Silverman. I am here on behalf of Clean Water Action Project. We raise our funds from many small contributions, from more than 60,000 people, so consequently, we try to represent that consumer interest, as I know this committee does.

The basic concern we have is industrial cost recovery, and with some of the other issues before the committee relating to: (1) A concern for clean water which the public has; and (2) a concern about inflation, particularly inflation in the price of water, which we think is the key issue here, and related to that, a concern for efficiency of systems. There is also a worry of the public that we perceive, (3) that the special interests are getting too much from the Congress. Whether justified or not, that is out there, and I think the committee needs to recognize that. And finally, (4) our supporters, the general public, have a keen interest in more public education and better training programs.

Last June, I appeared before this committee on the same topic, with some of my friends from industry, and we made a joint statement. I think that was unprecedented, and I hope we can do it again.

At that time, we said that this problem of the effectiveness and economics and the environmental integrity of joint municipal/industrial systems should be looked at comprehensively. There should not be a narrow view of the problem; the whole thing should be looked at.

We continue to support that position, and in particular, we urge this committee before it makes a decision to look at every subsidy program and every assistance program directed at industrial waste management.

Now, I realize some of the most effective programs are beyond the jurisdiction of this committee because they relate to the tax laws; they relate to economic development programs, and many other programs.

There are numerous industrial subsidies which are listed in the Coopers & Lybrand report. The problem is that no one seems to have looked at all of them and said, "Well, what kind of incentives can we give to encourage cost-effective planning? What kind of incentives can we provide that will discourage the waste of water, or the waste of resources, or the waste of energy?"

In 1972, the Congress set up the industrial cost recovery system, which was a kind of subsidy system in that it had no interest, and then, 2 or 3 years later, the House Ways and Means Committee came up with a tax subsidy that beat you, did something even better.

Well, it's my impression that Ways and Means was not thinking about public works or what you people were trying to accomplish when they did that. The chairman has alluded today to conflicts between the House and the Senate. Well, I think there are conflicts between the House and the House. And I hope that before you just repeal ICR or just do any single thing that throws some new calculations into the hopper, that you look at the whole thing. I know that is hard, but I think we are not going to solve this problem, and we are not going to get cost-effective pollution control without taking that step.

I would urge that you ask yourselves three questions: First, does the subsidy encourage wastewater treatment methods which result in the conservation of water, energy, and other resources, including money, because many subsidy programs do not; they encourage quite the opposite, they encourage waste. Second, are the subsidy programs consistent with one another? I would suggest that they are not. And I think that the testimony before was really saying that they are not. I do not think anybody was saying that it was truly economically cheaper to do one thing or another, but that given all the subsidies and the tax credits and the rapid writeoffs and so forth, you got one figure that looked better than another. But that does not have anything to do with the real interest of the consumers, because we pay—whether we pay it in our taxes, or whether we pay it in our frozen food bill or our paper bill—we pay it one way or the other. The bill has to be paid, as the chairman said.

Third, does the subsidy program encourage a cooperative relationship between the municipal officials, the industry, and consumers. And we believe that the answer, if you look at these subsidy programs again, is no.

So there is a big job here to look at how we are going to assist the industries to do their job, because I do not think we are doing a very good job of that.

We believe in general, as a matter of principle, that industries should pay for what they use, because we think that is the way you get the best performance from industries. As the chairman, I think, has suggested, industrial managers are and ought to be responsive to profit and loss. They are responsive to cost. They do things because they think it is cheaper. And that is good. And the only way we are going to fight inflation in this program or any other program is to encourage that kind of thing. If we give away too much free, if we say to an industry, "Well, you do not have a capital responsibility here," I do not think they are going to act in a responsible way. And in saying we should be very careful with these industrial subsidies, I am not being anti-industry; I am just recognizing what in fact motivates good industrial managers. I think we ought to appeal to those motivations.

A lot of times, environmental groups castigate the morality of industries, and there is a lot of speechifying and rhetoric and so on, but if we could just structure a system that builds in the right incentives, I think a lot of the problems are going to solve themselves.

Furthermore, we believe that there needs to be more cooperation between industry and municipal facilities. That does not necessarily mean there always has to be joint treatment facilities, because when joint treatment is more expensive, we should not do it. This committee should not encourage municipalities and industries to do what is more expensive.

However, there is a section of the Clean Water Act, 201(e), which talks about integrated industrial and municipal systems which produce revenues, even revenues in excess of capital and operation costs. There was a notion that the Congress had that if you structured your industrial waste management programs and your municipal waste management programs, that you might produce some revenues in the way of energy sales or fertilizer sales, or in some other way.

Now, I might say that in the whole corpus of EPA regulations, as far as I know, there is not one reference to that section 201(e), because the EPA people just do not believe in the idea of a self-sufficient treatment system; and they do not even try to make it work. But I think it is possible, and I think it is particularly possible when we begin to use innovative and alternative technologies. And I think we want to encourage that kind of thing.

It should not always be the case that industry is asking for services. Sometimes, industry can provide services. The waste heat from a powerplant can be used to ferment the corn grown with sewage to produce gasohol-type products. If you start making those connections, and you encourage better cooperation, we could save a lot of money in this country and solve some of our other problems, including our energy problems.

But that is not just blanket joint treatment. That is a cooperation based on realistic economics.

With regard to the issue of special-interest lobbies, as I said, the Clean Water Action Project has pioneered in working together with industries. But I would urge this committee, based on our contact with the public, to be very careful about taking an action that might be perceived as just a kind of giveaway. I think that could harm our efforts, and it could harm the credibility of this program, this is especially serious since there have begun to be a state of unfortunately true, but very depressing press articles and investigative reports, about the problems with the construction grants program. The Baltimore Sun just ran a 6-day series called, Clean Water: A Dream Fades. I believe the TV and other people will find some of the problems with this program and highlight them in the very near future.

So I think we need to be especially careful that whatever we do is seen as making economic and environmental sense and being fair to the taxpayer.

I think one of the biggest problems with industrial/municipal management has been the planning problem. We do the planning after we build the facilities. We figure out what a facility is going to cost after it is 90 percent completed, and then we argue about who pays for it.

The 208 effort is well behind the 201 effort, and it ought to be ahead of it. And in fact, the places where you see effective industrial and municipal cooperation—for example, Newcastle County, Del., which Myrna Hurd used to run—you also see effective 208 programs. She got those people together, and she worked on this industrial-municipal problem as a 208 agency. And it just disturbs me so much to see the administration and the OMB cutting back on 208 programs when they are so needed to make all our efforts and all this money worthwhile.

Another area where we are deeply concerned is the question of education and training. This committee in 1977 required EPA to set up a continuing program of public education and information on land application, on recycling, and on water conservation. Those are all cost-savers. That was section 214, it was a very enlightened provision, and I am afraid that EPA has just about ignored it.

There are a lot of people out there who do not even know what you did in 1977, and they need to be told.

The question of training of municipal officials, particularly operators, is a scandal. All this $30 billion worth of investments we have are going to fall apart if we do not get better-trained people to operate them. And I just do not see how it fights inflation to say we are going to spend $4 or $5 or $3 billion a year, but we are not going to spend $1 or $2 million to train operators. It just seems to be counterproductive, and I thought that Mr. Beck's testimony in this regard was very disappointing.

In particular, I point out section 104(g) of the Clean Water Act, which is really training for operators. Some of the other sections deal with universities, which are also important. But there is nothing more important than direct operator training. We are talking about a profession where the average pay is $9,000 or $10,000 and where the turnover is constant, and where the failure rate is tremendous. We have got to do better than that.

We support—and I think many other kinds of groups support, and the public supports—better public education. That does not mean you take over the schools. It does mean you provide some money to States and institutions and groups that could do a good job of education and training. It seems unconscionable and also unworkable for the Federal Government to come along and say, "We have these complex provisions, but we are not going to show you how to work them. We are going to regulate but we are not going to educate."

I think that is one of the key problems with ICR. The administrative burden and everything else really amounts to the fact that a lot of people do not know how to set up these complex systems of charges. There are some people who have been able to do a good job of it—Mr. McCauhey is one of them—and maybe they should be enlisted to teach the others.

I should also say that the administration and OMB policy against public education and against training is at odds with the President's statements on this subject. Recently, President Carter announced a series of ambitious rural initiatives to help rural agencies take advantage of Federal grant and regulatory program. The key to those initiatives was better training and education. So on the one hand, the President is saying we are going to do more training and education, and on the other we have OMB saying, "No; we are going to cut those funds." It just doesn't make sense.

Finally, I think as an alternative to ICR—we incidentally, would oppose the simple repeal of ICR. I think you have got to come up with something better, and I was happy that Mr. Beck was trying to do that.

One system which I think has some possibility is just to say well, the EPA is not going to fund industrial capacity. We will, through our tax laws, provide such incentives as we think are just for industry. And they can use those incentives to self-treat, and they can use those incentives to join with the municipalities. They will make good decisions in that way. Now, that may not be politically possible; you know better than I. But it certainly makes economic sense

The tax laws are meddling with the sewage treatment program; I do not see how to avoid it.

Finally, Mr. Chairman, let me say that the real issue today is inflation, deciding who pays for what and under what basis. Those kinds of decisions are either going to drive up the price of water and everything else, and create problems much worse than the energy problem, or they are going to keep that price reasonable and help us deal with this problem of inflation.

Thank you very much.

Mr. ROBERTS. Mr. McGauhey?

Mr. McGAUHEY. Mr. Chairman, members of the committee, and ladies and gentlemen, one of the first things that I think I need to do is clear up some confusion. I received a phone call late yesterday afternoon, concerning why I was with an environmental group rather than a group of public officials.

Well, amongst many of the associations I belong to concerning clean water, I am a proud member of the American Clean Water Association, a small group of approximately 125 people in 30 States and the District, that cuts across many disciplines.

I think I can also testify that one of the reasons I am an environmentalist is that I spent 28 years of my life as a combat infantry officer and have helped tear up the environment in many places. My second career gives me an opportunity to help clean up what I tore up. So that is the reason I am with an environmental group.

Mr. CLAUSEN. When are you going to run for Congress? [Laughter.]

Mr. McGAUHEY. Mr. Chairman, I want to go quickly, because I know we are pressed for time here. So I am going to get away from the outline completely.

We were encouraged to hear Mr. Beck testify this morning that consideration will be given, and this is one of our recommendations to the committee, that if a community is involved in its own industrial cost recovery, then a waiver should be given to that community because of that effort.

We would like to take a couple of minutes here, though, and tell you the history of the present effort at Hagerstown, Md., in its water pollution control department.

I had the privilege of being appointed the administrator of that department in 1973. The community had been on a sewer moratorium for 5 years. We, in late 1973, got the city off the sewer moratorium, because of some positive efforts and steps that we had taken.

I think some of the testimony I have heard this morning indicates that a community can take some positive steps, and also fit the needs of Public Law 92-500 in its efforts, because we took some of these steps before we really got involved in the grant program. And I think the paper on your table will show you that one of the first things that we had to do was work with industry in the community, and we started our own pretreatment program and got it through our own city legislature, and it is part of our law today, where the industry and the municipality are working hand in hand to solve some of these problems.

And certainly, that old treatment plant that we had in the ground up there, that was the first activated sludge plant ever in the ground in the world, we could not take some of the industrial wastes that were being discharged to the system.

So we started our industrial waste program and put 114 commercial and industrial accounts under close surveillance. And today, we are closely monitoring 3 times a week 14 of those industries. It is a completely cooperative effort between industry and the city government. Mack Truck, one of our major industries in Washington County, has a potential of discharging cyanide in their process and also their cutting oils. We are working out an agreement with them where they would pretreat. We have also encouraged them through this effort that they would conserve water. Their plans at the present time are to cut their discharge from a million gallons a day into the treatment system down to 300,000 gallons. It is their judgment, and through their accountants and through their sanitary engineers, that they can effectively and cost-effectively treat their wastewater better than a municipality can.

And the city is going to benefit in many ways. We are going to have a 700,000 capacity by mutually working out these problems, in 1983, but also our water treatment plant will have a 700,000 reserve capacity. So there is economy in working with industry.

We can cite another example of an industry working closely with them, the Jefferson Cheese Co. And this is where I disagree with some of Mr. Beck's testimony, where he said we will up the ante to 50,000 gallons a day discharge. Jefferson Cheese, their discharge to our system was 10,000 gallons a day, and their BOD loading in that effluent, that discharge to us, was the equivalent of 6,000 homes. We only have 10,000 homes in the community to start with.

We worked diligently with Jefferson Cheese. They had a product there that we could haul to the farm, the cheese waste, for fertilizer, to be distributed on the field. It was a very sanitary, pasteurized product. So their domestic waste is discharged to our system, and today their cheese waste is hauled to the field to be used by the farmers for fertilizer, or also swine feed.

Mr. CLAUSEN. I wonder if I could interrupt you for a second.

Mr. Chairman, I am plagued with a problem. I have got one of my mayors in my office, and you know you cannot ignore your Mayor from home.

But I would like to ask unanimous consent, Mr. Chairman, that I be permitted to channel a question now to Mr. Silverman and that he would respond in depth in the record.

The question will be this. I believe you were in the room when I questioned Mr. Beck about advancing technology, especially in light of increasing concerns over the operation and maintenance issues, but more specifically, the increased costs in operation and maintenance. And I would like to have you, if you would, Mr. Silverman, give us your view of the implementation of the innovative technology program that this committee advanced back in 1977.

If you could give us a comprehensive response to where we are in that area, because I think that some of the points that you are making seem to coincide with what we in the committee have been advancing, and also there is a potential, on the basis of what I have been hearing from industry, of addressing the advancing technology side, to get at the cost question.

Mr. **Roberts**. Thank you.

Mr. **McGauhey**. By taking these steps with industry, the Hagerstown Water Pollution Control Department was successful in an effective and viable sludge management program, because all the heavy metals and the nuisance products and so on have been removed from the sludge.

We could effectively, then, and were permitted by the State, to use our sludge as a soil conditioner and fertilizer. We are not going to take the time this morning to go into detail on what we have done on that, but we are working and are producing sludge right now that has been pasteurized.

At the same time that we took these steps with the industrial users, we also brought about an equalized rate structure in the department, which EPA has now recognized as one of the best region 3 has gotten their hands on. And we were doing this again ignorant of the provisions in Public Law 92-500. It was our intent, in working with our elected officials and again with our industry, that everybody in the sewer club should pay the same rate. Industry, as well as the domestic householder, now pays 90 cents per 1,000 for the treatment of the waste discharged from the system.

There had been 26 rates, and they were hard to administer, they were hard to explain, and in many instances, they were certainly not equitable at all.

We had some citizens paying as high as $2.50 per 1,000 for treatment, some industries paying as low as 12 cents. Now everybody pays the 90 cents.

We also, in our rate structure, made provisions for future development and capital costs. We did away with the front-foot charge and installed a benefit charge. This was based on $2.10 a gallon that was discharged to the system, and in your—I will not go into detail, you have it in front of you.

In summary, it is our judgment that ICR impacts local governments and that emphasis should be on pretreatment by EPA. Pretreatment negates the need for ICR programs. Pretreatment can be better controlled than ICR because it has to be enforced locally.

We take exception to Mr. Christiansen's statement that local officials cannot be trusted to manage money for the future. These funds developed through this rate charge that we installed in 1974 are restricted to capitalization of the waste treatment plants.

Thank you, sir.

Mr. **Roberts**. Thank you very much.

Mr. Barlow.

Mr. **Barlow**. Thank you, Mr. Chairman.

We would like to direct our comments today particularly to section 208 and the rural clean water program.

Mr. **Roberts**. I thank you for that. I think the most neglected section of the Clean Water Act is section 208. I think you all have made that point.

Mr. **Barlow**. Yes, sir. We entirely agree.

We feel that section 208 has focused attention on nonpoint source pollution in the past few years, and your committee has completed over the past year some excellent oversight hearings on the needs of the nonpoint source area and what should be done to get this whole control program moving.

And we hope that in the next 10 years that as much attention can be accorded to nonpoint sources as has been accorded to municipal discharges and point sources in the past 10 years.

We strongly support the reauthorization of the rural clean water program. It has taken a while to get this program moving, but the regulations that came out this fall are excellent, and we are very grateful to all the committees, as well as the agencies that were involved in putting this program together and finally getting it moving.

We hope that in the reauthorization, perhaps in the report language, that strong emphasis can be given to long-term contracts with the recipient landowners, long-term operating agreements of a comprehensive nature that involve a conservation plan for the entire farm unit, so that when a recipient is receiving money, it is not a one-shot, scattergun effect across his land; it is fitting into a long-term program of installation and operation that is going to pay dividends for a lot of other nonpoint sources than may be addressed just with that money that is going to him from the Federal Government.

Thank you, sir.

Mr. **Roberts**. Thank you.

Mr. Sampson.

Mr. **Sampson**. Thank you, Mr. Chairman. I appreciate the chance to appear here today with this panel.

We, too, would like to address the sections of your bill that would extend sections 106, 208, and 314 in the Clean Water Act.

These sections have established what is a continuing process, and although, as we all recognize, the 208 program did get off to a very slow start, it has had a very stutter-step beginning, I think in many parts of the country, it is beginning to show real effect and real effectiveness. And I think it is important now that your bill be enacted and that those sections be extended so that we can continue the process that is well underway and that is accomplishing a great deal.

The National Association of Conservation Districts is currently preparing a film on the success stories around the country in cleaning up water through the 208 program, and I have seen some of the early sections of that film, and I believe it is going to be a very impressive one. I think it is going to make a great impact on the public, because we truly do have success stories developing around the country, and I believe this committee and those who have been involved can be justly proud of them.

With that, and the crush for time, I would close. We do encourage and support the passage of your bill, and we thank you for the chance to render this testimony.

Mr. ROBERTS. I want to thank all of you for your testimony, and I want to say that our viewpoints have moved much closer together than they were some 10 years ago.

I think, though, that Mr. McGauhey probably hit the nail on the head when he said that we were using 208 in reverse, after it is all finished. If we had probably had the accent where we put it when we passed the bill on the 208, the other programs would have been much more successful and caused much less problem. And I want to thank Mr. McGauhey for that.

Mr. McGAUHEY. Mr. Chairman, may I respond to that? We call it 713(e), all the numbers that are in the law—you had 201, 208, and 303(e). And if we are going to be successful in the war on clean water, the problems are at the local level, and they must be completed and solutions found at the local level. And unfortunately, we were doing our planning completely backward. We were doing 201 before we were doing 208, and before we were doing 303. And if we had followed the sequence as the law showed it, we would have been doing 712(e), 303 first, then 208, and finally 201.

Mr ROBERTS. Well, I think even our severest critics have to admit that the Clean Water Act has been a success—not as much as it would have been if we had written it differently, but at least it has done some good, and I thank all of you for participating.

Do you have some questions, Mr. Oberstar?

Mr. OBERSTAR. No, Mr. Chairman. I concur. The statements have been very straightforward, and we appreciate your presentation and participation. And when, Mr. McGauhey, you have come to a position on the industrial cost recovery, we would look forward to your submission of that position to this committee.

Mr. ROBERTS. The Chair would like to suggest that again just using the crystal ball, that you go and grab a bite to eat somewhere, and we will go over and get the House underway, and if they do not just nail us to the wall, we ought to be back here at 2 p.m. and we can hear the rest of the witnesses.

We apologize, but the schedule is beyond our control.

Mr. McGAUHEY. Mr. Chairman, could I just approach the Chair for just a minute?

Mr. ROBERTS. Certainly.

[Discussion off the record.]

Mr. ROBERTSON. Whereupon, at 1:05 p.m., the subcommittee was recessed, to reconvene at 2 p.m. this same day.]

AFTERNOON SESSION

Mr. ROBERTS. The subcommittee will come to order.

We are pleased, of course, to have Bob Canham and Carmen Guarino from the Water Pollution Control Federation here with us. You have been here before and we are pleased to have you again.

The full text of your prepared statement will appear in the record at this point.

[Statement referred to follows:]

STATEMENT OF CARMEN GUARINO, PRESIDENT-ELECT OF THE WATER POLLUTION CONTROL FEDERATION AND DEPUTY COMMISSIONER OF THE PHILADELPHIA WATER DEPARTMENT, CITY OF PHILADELPHIA

Mr. Chairman; members of this committee, my name is Carmen Guarino. I am the president-elect of the Water-Pollution Control Federation and Deputy Commissioner of the Philadelphia Water Department. I am speaking to you on behalf of the Federation—a technical and educational association of 30,000 members—and of my city. With me is Mr. Robert Canham, executive director of the Federation. I will direct most of my remarks to the provisions of HR 6667 that deal with the elimination of industrial cost recovery (ICR) requirements from the Clean Water Act. First, however, let me comment on the other provisions of the bill.

Since 1974, the Federation has consistently supported appropriations for manpower training that would match the documented needs in this area. Treatment plants are run only as well as the operators responsible for them are trained to run them. Thus high-quality operation starts with high-quality training. It makes no sense to require the building of sophisticated treatment facilities if not enough qualified personnel are available to make them perform properly. If the monies HR 6667 authorizes for section 104(u)(2) and (3) will be used by EPA for this purpose, we are in favor of continued authorization. For the same reasons we favor extending authorizations for section 112(c) whenever those funds are also used to promote manpower and training. At the same time let me note that the Federation's members believe that operator training programs are best run at the state and local level, not the federal level, and that EPA involvement in the area should support such state and local efforts.

On the subject of water pollution control programs under section 106(a)(2) I must express our qualified support. WPCF favors a more evenly balanced state and federal partnership in which the majority of the authorities and responsibilities for the overall program are delegated to the states. Our position is that Congress itself should delegate such powers to the states with no federal preconditions attached. That authority would revert to EPA's Administrator only in cases where systematic abuses of the powers are revealed by federal audit. In line with this position, we support giving states more authority to administer the construction grant program, but urge Congress to fund such efforts independently of the allotments for actual design and construction.

We support continued authorization for areawide management programs under section 208. As the oldest section of the Act dealing with problems of rural nonpoint source pollution in particular, we believe 208 planning and management should concentrate on developing the information this country badly needs on where nonpoint source pollution occurs locally; how serious a problem it is, compared to point sources; and how it can best be dealt with at the local level.

Since its first resolution on the subject in 1974, the Federation has consistently called for the elimination of industrial cost recovery. None of the information on ICR gathered in the six years since that time has changed our judgement. Initially, ICR was developed as a way to deal with three potentially troublesome problems that could have arisen under other provisions of the Act from time to time. These were:

1. Giving industrial customers of municipal treatment systems an advantage over their competitors who discharge directly to receiving waters;
2. Funding municipal treatment systems with too much capacity because industrial contributions were overestimated; and
3. Unintentionally promoting the wasteful consumption of water and the production of wastewater by discounting the true costs of treatment incurred by industrial users of the municipally-owned systems.

Despite the sincere time and effort of many individuals at all levels of government to make ICR work, ICR deals with none of these problems well enough to deserve continuation. In addition, the underlying assumptions about the social value of ICR are questionable and do not, we believe, justify continuing the program either.

COMPETITIVE ADVANTAGES TO INDUSTRIAL USERS

In 1972, when the Clean Water Act was initially developed, the interrelationships between the different programs created by the law could not be completely foreseen. ICR was developed as a way to ensure that industrial customers of municipal treatment systems did not end up paying less for wastewater treatment than competing firms that had to discharge directly to receiving waters after treating their own wastes. At that time it was reasonably supposed that the economies of scale that could be realized at a municipal plant serving many customers—among them industries—might give industrial users a significant break on the cost of wastewater treatment.

Evidence gathered by EPA, members of the Federation, the Association of Metropolitan Sewerage Agencies, and private industry organizations show that the incidence of unfair competitive advantage attributable to being connected to a municipal treatment system is insignificant.

To be sure, there are cases where one or two industrial customers contribute a major portion of the total flow to a publicly owned plant, thereby deriving some benefit from being connected to a facility that is supported by federal funds. There is no evidence, however, that the industrial customer gains any real advantage over his competitors in the marketplace because of that fact.

The reverse has been shown to be more prevalent, in fact. There are cases in which the imposition of an ICR charge—on top of the required user charge—has been a significant factor in a company's decision to remove itself from a municipal system because the costs of staying in were too high. This type of anticipated "ICR backlash" has been well documented in the Sacramento, California area, where one food processing company has closed its operations and a second firm is considering relocating outside the system. A more difficult form of ICR backlash to measure—but one we believe exists—is the weight business planners give to ICR payments at a particular plant when they are considering whether or not to expand operations at that location or to direct company growth to another location.

There have been reports from time to time that ICR payments are "a factor" in such decisions. How significant a factor we cannot say, since such occurrences cannot be spotted and counted the way plant closings are tracked. Accurate count or not, the point I am making here is that such calculations illustrate that competitive advantage concerns are not borne out by the information we have and that ICR programs, as a nationwide means of dealing with this possibility, are unnecessary.

Given that the best investigations so far have failed to turn up a significant number of cases where industrial users of municipal systems have realized any economic advantages in the marketplace, can we continue to use this concern as a rationale for ICR? In fact, when the evidence collected so far indicates that there are cases where municipal connection is a burden rather than a benefit, are there not good reasons for eliminating ICR as soon as possible?

EXCESS CAPACITY FOR INDUSTRIAL USERS

The second reason for initiating ICR programs was the fear that industrial users would take advantage of the federal construction grant program by over-estimating their projected contributions to a federally funded facility; see the plant built; then relax because the facility had more than enough capacity to handle industry's future flows.

Spending federal tax dollars to build treatment plants that are larger than they have to be is a legitimate concern in an environmental protection program that consumes several billion dollars a year. EPA has developed a number of different ways of preventing this from happening. Experience to date shows that ICR is not effective preventative technique, however. It is unlikely that it could ever be such a tool.

Two hundred twenty-seven plants were checked during the last Congressionally mandated investigation of ICR's feasibility. That check revealed that the average treatment plant included a reserve capacity for future growth equal to 32 percent of the design capacity. This average is well within the 20 to 40 percent reserve capacity range EPA has decided is acceptable in a federally supported plant. Cases in which a plant was built with more capacity than needed do not show that an ICR program would have prevented the over-design. Other factors more directly related to the actual planning and construction of a plant explain why over-design occurs.

EPA has developed a comprehensive set of grant regulations for dealing with the problems of over-design that are an effective check on inflating reserve capacity. This set of regulations is independent of ICR requirements and will not be changed if ICR is eliminated from the law.

With an effective set of federal regulations already in force to deal with the problem of excess reserve capacity the second reason for requiring ICR programs is being more successfully and directly met through the normal course of construction grant management. Continued inclusion of the ICR requirement in the Clean Water Act cannot be justified on the basis that it prevents the building of excessively large treatment plants. Attempts to over-design a plant have been made in the past; they will occur in the future. No doubt some communities will try to "hedge their bets" on future growth by trying to get as much reserve capacity approved by EPA as they can. But their reasons for bending the rule on reserve capacity have nothing to do with ICR. Besides, as the retainer of 50% percent of the ICR revenues collectable under this program the municipality stands to gain rather than lose by having a greater portion of the plant capital cost borne by industry.

ICR requirements will not stop a municipality from trying to build an excessively large plant, if that is what it wants to do.

WATER CONSERVATION THROUGH ICR PAYMENTS

The third and final reason for creating ICR was to encourage industrial users to conserve water and reduce the production of wastewater. None of the information at hand supports the idea that ICR does this. Water conservation has been encouraged by the promotion of equitable user charge systems that eliminate volume discounts and declining block rates for large water users.

Industrial customers questioned about their reasons for reducing water consumption do not cite ICR payments as a factor. Instead, they point to higher water bills and increased user charges as the primary reasons for conserving water. This makes a great deal of sense economically because both these factors act directly on a firm's overall water use. Eight years of implementing the Clean Water Act should give credit where credit is due: acknowledge that the "user pays concept" of resource consumption and waste production has been vindicated by fair pricing of water and wastewater services and has made an important contribution to the conservation efforts around the country, but do not cloud the point by adding ICR as a hypothetical inducement to the same end.

OTHER REASONS FOR ELIMINATING ICR

The Clean Water Act was passed by Congress in 1972, supported by overwhelming public support for a water clean-up campaign 100 times greater than anything before that time. Along with the enthusiasm for a national committment to spending more money came a suspicion that industry should not benefit from the program. One of the underlying assumptions behind ICR was the thought that this program would avoid even the appearance of a government subsidy for industrial clean-up efforts. We believe that the time has come to recognize that ICR is not needed as this sort of safeguard any longer. Based on what we now know, there are other compelling reasons why ICR should be eliminated, aside from the fact that it does not meet its original objectives. I will mention briefly only six of these.

No. 1—ICR is an inefficient way to collect more revenue for local governments

The Clean Water Act allows municipal authorities to keep up to half of the revenue they collect through ICR. They may apply as much of that 50 percent as they wish to offset the cost of running the program; the rest must be reserved for future construction. In some cases administrative costs are low, in others they are fairly high. In some cases the costs actually exceed the amount of money the municipality is entitled to retain.

While the amount of money a municipality can retain remains constant each year (unless the Act is changed), the costs of collection will inexorably rise over the life of the local program. EPA has estimated that administrative costs can increase by a factor of 10 over the 30—year period needed to collect ICR on a given grant. For any municipality whose collection costs are greater than 5 percent of the total revenue collected, it is quite possible that the program will run a net deficit before it is completed.

Inflation will further reduce the value of the dollars retained. Should the current inflation rate of over 13 percent remain relatively constant, ICR payments will never contribute significant monies to future construction. Predictions about the real dollar value of a local ICR fund at the end of the collection period are difficult to make now, but trial calculations by the Bergen County Utilities Authority confirm that administrative cost increases and high inflation rates will produce ICR programs that are a net loss to that treatment agency.

No. 2—Maintaining the credibility of local ICR systems will take time and money

Current ICR regulations are a fairly sophisticated set of instructions on how to develop and administer the program locally. In those instances where ICR will produce significant revenue for local government, additional regulations and administrative energies will have to be spent making sure that the division and use of the money collected meets federal requirements; that future construction funds are properly managed; and that industrial customers make their payments with a minimum of enforcement action. The costs of doing all of these things has not been included in any of the feasibility studies done so far.

Should all such management activities be carried out at the federal level? Should local governments be subject to federal audits or state audits of their programs? How should potential disputes over what constitutes fair payment by an industrial customer be handled? These and other questions related to the long-term management of ICR programs will take time and money to answer.

No. 3—Pretreatment programs will reduce the qualitative difference between industrial and domestic discharges

Under section 307 of the Act, treatment agencies will be required to carry out local pretreatment programs that will change the characteristics of industrial wastewater discharges to municipal systems. These changes will bring industrial wastes more closely into line with domestic wastes. If the qualitative difference between the two is effectively reduced, it can no longer be argued that industrial users should pay an additional fee for the service they receive on top of their regular user charges. In fact, the cost of installing equipment at the industrial plant or of altering production processes to meet pretreatment requirements will be an additional expense to the industrial customer. Meeting local pretreatment requirements makes the question of competitive advantage I discussed earlier increasingly suspect as a rationale for ICR.

No. 4—User charge systems are a treatment agency's best way of creating a self-sustaining operation

The Clean Water Act requires local governments that take advantage of the federal construction grant program to adopt a system of service charges that makes every customer pay their fair share of the costs of treatment. Such systems are designed to pay the full cost of operation, maintenance, and debt retirement. In effect, user charge systems are designed to make the treatment agency capable of replacing its facilities at the end of their useful lifetime without additional federal funds. Customers with unusually strong or exotic wastes are charged additional sums for the special costs of treating their discharges. Thus, user charge systems can recover the full cost of providing service and they can do it in an equitable fashion.

Industrial customers pay their fair share of the O&M and debt service on a plant through the user charge system. Thus, they are contributing to that plant's eventual replacement whether or not ICR programs are required. People worried about making sure local treatment agencies can run their operations on a sound financial basis are better advised to concentrate on ensuring that user charge systems are equitable and efficient, not on ICR requirements.

No. 5—Municipalities with approved ICR systems have not elected to operate them

After amending the 1972 Act in 1977 and including revisions calling for an evaluation of the effectiveness of the ICR program, Congress instituted a voluntary moratorium on the collection of ICR funds. Through a later extension, that moratorium now runs until July 1, 1980. EPA reports that there are some 1,000 approved ICR systems in the country. Thus far, only 20 of the 1,000 potential collectors have chosen to run their programs. This is a very poor track record for a program that is supposed to benefit local communities. We believe it is a demonstration of the widespread feeling at the local level that ICR is not a useful program.

No. 6—ICR does nothing for pollution control

In the final analysis, the decade of intense environmental protection activity just coming to a close will be judged in a very simple way: How much pollution did we control or prevent, and did we do so in a fairly efficient, economical way? When we judge the contributions of ICR in this light, we find that industrial cost recovery does absolutely nothing for pollution control. It does not result in cleaner effluents—pretreatment deals with that problem. It does not contribute to the running of treatment facilities—user charges do that. And it does not significantly promote conservation of water—equitable service fees accomplish this end.

Conclusion

In summary, ladies and gentlemen, ICR is a program that was designed to meet several legitimate concerns about pollution control. As events of the past eight years have shown, however, those concerns are either being met more succesfully with some other programs now operating, or they are not the significant problems that people anticipated they would be. The justifications for ICR—reasonable though they once were—have been eliminated and it is time that the program itself be removed from the law and our time and energies directed towards the more important problems that confront us in the 1980's.

Mr. Roberts. Please proceed.

TESTIMONY OF CARMEN GUARINO, PRESIDENT-ELECT, WATER POLLUTION CONTROL FEDERATION, ACCOMPANIED BY ROBERT CANHAM, EXECUTIVE DIRECTOR

Mr. **Guarino**. For the record, I am Carmen Guarino, president-elect of the water pollution control federation, and deputy commissioner of the Philadelphia Water Department. I am speaking on behalf of the federation, a technical and educational association of some 30,000 members. With me is Mr. Robert Canham, the executive director of the federation.

I would also like to add that I do bring 30 years of experience here. I have been operating treatment plants and managing large utilities for that period of time.

I will comment very briefly on the provisions of H.R. 6667, which extends authorizations for various sections of the Clean Water Act, and will concentrate my remarks on industrial cost recovery.

Now, as for H.R. 6667 authorizations, since 1974 the federation has consistently supported appropriations for manpower training at levels that will match the documented needs in this area. We support the provisions in this bill that would extend authorizations for our O. & M. pilot programs and for manpower supply forecasting, provided the money is spent to keep track of the needs and to develop effective ways of meeting them through hands-on training at the State and local levels.

We also support extended authorizations for State water pollution control programs, while urging Congress to consider giving more authority directly to the States than is now the case under EPA's State delegation program. Primary administrative authority should rest with the States and should revert to the EPA Administrator only in cases where Federal audits of State programs show systematic abuses of that power.

The Federation strongly supports continued funding for the 208 areawide management programs, particularly where that program is directed toward assessing and reducing nonpoint sources of pollution.

We will talk about industrial cost recovery now.

WPCF has consistently supported the elimination of ICR requirements from the Clean Water Act since 1974. None of the evidence gathered by EPA or anyone else since that date has convinced us that the program is worth continuing on a national basis.

I don't have to repeat the purposes of ICR. That has been mentioned several times this morning. I will skip right on down and state that almost 8 years have passed since the Clean Water Act was signed and the ICR requirements were created. In that time we have found that, No. 1, the question of parity is not significant on a national scale. Two, regulations in the 201 construction grants program deals successfully with the problem of excess capacity. And three, water conservation and reduced wastewater flows are effectively encouraged by fair pricing of water supply and wastewater treatment costs.

There are other reasons for eliminating ICR. The Clean Water Act was passed by Congress in 1972, supported by overwhelming public support for a water cleanup campaign that was to be 1,000 times greater than anything seen before that time. Along with the enthusiasm for a national commitment to fishable and swimable waters went the belief that industry should not benefit from the publicly supported elements of the program. One of the underlying assumptions behind ICR was that this program would avoid even the appearance of a Government subsidy for industrial cleanup efforts.

I believe the time has come to recognize that ICR is not needed as this sort of a national safeguard any longer. Outside of the fact that ICR does not meet its intended goals, there are six other reasons, at least six other reasons, why ICR should be removed from the law:

One, ICR is not an efficient collection mechanism for most local governments. On this one, I would like to disagree with what was said this morning. I would suggest that you ask Mr. Beck to clarify his statement that inflation does not have any impact here. As we see it, it does.

Two, maintaining the integrity of local ICR programs will take time and money.

Three, pretreatment programs will reduce the qualitative difference between industrial and domestic discharges, making them equally treatable in most cases.

Four, user charge systems are a treatment agency's best way of creating a self-sustaining operation.

Five, municipalities with approved ICR systems have not elected to operate them.

And six, ICR does nothing for pollution control.

Now, a possible alternate to ICR. If it is truly necessary to retain some form of ICR requirements in the act for political reasons, WPCF suggests a redefinition of the term "major industry" as used in the implementing regulations, so that a major industry is (1) a discharger with a flow of more than 50,000 gallons per day, or (2), contributing a flow greater than 5 percent of the total flow of that municipal system, or (3), discharges flow that contains toxic pollutants as defined under section 307(a) of the act, or (4), creating a flow that has a significant impact on the treatment plant or its effluent.

So in conclusion, evidence and information now available since 1972 show that the concerns that gave rise to ICR are neither significant nationally as once thought, or that they are being dealt with successfully in some other way. The justification for ICR, reasonable as it was in the beginning, has been eliminated. It is time that the program be removed from the law.

We thank you for this opportunity to make our statement.

Mr. ROBERTS. Thank you, Mr. Guarino, and congratulations on your election to the presidency of your organization.

On the first page of your statement you favor authorization for section 112 as long as those funds are used for promotion of manpower and training objectives. I am sure you're aware of the fact that EPA has not recommended further authorization of the programs.

I wonder if you could explain why we should extend such a program.

Mr. GUARINO. When he made that statement, I did talk to Bob Canham and indicated I was against that.

Now, Bob indicates to me that was for academic training, is that correct?

Mr. CANHAM. Some of it.

Mr. ROBERTS. Well, he was speaking of academic training, but really, I think the place the training does the most good is training the operators to operate the plants to full efficiency, and we aren't getting but about two-thirds efficiency.

Mr. GUARINO. Well, my feeling—I'm pretty sure the association feels the same way—that we are not putting enough money into the training of operators. I think that is borne out by many studies, particularly the studies done recently by GAO, that indicate the Federal money has been spent to design good plants but they're not being operated properly. So I'm pretty sure the association would be in favor of money in training, as long as it would go toward operator training.

Mr. CANHAM. I would like to comment a little further on that, Mr. Chairman.

It has long been evident to us that the Federal Government has no business in the direct training of operators. The mechanics of doing this just become too complex. The most effective training and development of operators is at the point nearest the problem, and that's in the local agency. But there is a strong need for Federal dollars to support, in a seeding way or a supporting way. We are disappointed that those funds are not now being recommended by the administration.

Mr. ROBERTS. Mr. Guarino, I would like to have a comment or two from you with reference to EPA's suggested options in lieu of ICR requirements.

Mr. GUARINO. Yes. Well, we represent 30,000 people and we do have feelings about those comments that were made this morning. But we would rather respond to those in writing, when we have had a chance to analyze them.

Mr. ROBERTS. We would appreciate it if you would.

Again, I want to thank you for being here and I thank you for the job your organization does, both of you.

Mr. GUARINO. Thank you.

Mr. ROBERTS. Next we have the Potlatch Corp., Mr. Congreve, who is accompanied by three people that he will present to the subcommittee.

Mr. Congreve, we're glad to have you before the subcommittee. The full text of your prepared statement will appear in the record at this point.

[The statement referred to follows:]

STATEMENT OF R. N. CONGREVE, VICE PRESIDENT, POTLATCH CORP.

Mr. Chairman, members of the committee, I am Richard N. Congreve, vice president of Potlatch Corporation and general manager of the corporation's Northwest Paper division, which has its main offices in Cloquet, Minnesota. The corporation's headquarters are in San Francisco. I am also a professional chemical engineer, so registered in the states of Minnesota, Idaho, Washington, California and Illinois. The Northwest Paper division operates paper mills in Brainerd and Cloquet, Minnesota; our Cloquet complex includes a pulp mill, one of three owned by Potlatch in various parts of the country. Like others in the pulp and paper industry, we utilize large quantities of water in our manufacturing processes, and that water must be treated before it can be discharged back into public waterways. Water treatment is handled entirely by company facilities at each of our locations except Cloquet. There, after pretreatment, our effluent is turned over to the Western Lake Superior

Sanitary District. This district, which began to service us in January of last year, also provides treatment for waste water generated in a 500-square mile area by approximately 130,000 residential users, eleven municipalities and four industrial users. We are by far the largest client, paying about 40 percent of the total cost, and my testimony today is based on our experience over the last few years, during which the sanitary district plant was conceived, built and put into operation.

My purpose is to urge the elimination of industrial cost recovery requirements for publicly-owned treatment works funded under provisions of Public Law 92-500, as it is a disincentive for further participation and cooperation between municipalities and local industries.

Our experience has convinced us that the ICR requirement, contrary to the intent of Congress, not only fails to maintain parity for industrial users, but actually injures them competitively and creates additional inequities for both present and potential industrial users of publicly-owned treatment works. Depending on their situation, it encourages them to minimize their use of the municipal system through added pretreatment, to seek ways to terminate participation or—in the case of potential users—to avoid becoming involved. This is at odds with our national goal of maximum water quality at minimum cost because it encourages the proliferation of small, specialized treatment plants. Withdrawal of industrial users injures existing public plants by reducing their efficiencies and penalizes planners of new plants by denying them the opportunity to build to efficient sizes. This increases costs in the operation of public plants, and, thereby, to their customers. Overall, encouraging the construction of more and smaller plants raises the total costs of water treatment for the country, adding to inflation and diverting scarce capital to essentially non-productive uses.

We believe, as we did in 1974, when we agreed to participate in the regional district, that a system of publicly-owned treatment works is the best overall solution for all users. However, this approach has disadvantages to industrial users without the extra burden of industrial cost recovery, which would make those disadvantages overwhelming.

I want to emphasize that we are not trying to turn the clock back to 1973, nor are we attempting to withdraw from our agreements. This is not the case. My hope is that our experience can be used by the Congress to help perfect a system that has helped this country make enormous progress toward a national goal of clean and healthful water.

Our understanding of the original purpose of industrial cost recovery was clear. Capital would be required to construct the plants used to treat industrial waste. if some companies, by using a municipal plant, did not have to provide that capital, they could have an unfair competitive advantage overthose who built their own plants. It was recognized that municipal plants would have certain requirements industry would not need. However, it was assumed industry would benefit from economies of scale, and that any other inequities would be eliminated by limiting the payment to the capital advanced in the grants: in effect, an interest-free loan. The theory sounded great, but it was unproven and there were grave doubts that it would work. Congress recognized this by authorizing a delay in the collection of payments until the results of the overall program could be studied. We believe the wisdom of that Congressional action has been borne out by experience.

I suspect that the process we followed in deciding to become part of a sanitary district was like that for large users elsewhere. Discussions began in 1969 and, by late 1970, when cost factors began to crystallize, it appeared to be far less expensive for us to remain independent. We appreciated the logic of the publicly owned treatment works approach, however, and continued to negotiate.

By December of 1973, when Potlatch agreed to participate, there had been considerable negotiation, including some concessions by the sanitary district that reduced our projected costs.

I will be using some figures as I go on, but they are summarized on the last two pages of my statement.

As closely as we can reconstruct the figures today, the difference between the costs of the public facility and comparable costs for our own plant, including the tertiary treatment required by 1977, had narrowed by December of 1974, when final estimates were available. The figures offered by the sanitary district actually were lower than what we estimated our own plant would cost. The saving at that time would have been $128,000 a year, or about 8 percent.

We did not have a lot of confidence in that figure. Our own was based on the kind of detailed study required for an allocation of corporate capital, but we didn't know how good the district's figures were. However, even with a good sized margin of error, it was not unreasonable; it eliminated the possibility that changes in requirements on the river could hurt us, and it helped the sanitary district achieve a plant of economic size. Even today, we are told that, without us, construction of a regional plant would have been uneconomic. Finally, of course, at the time of our decision, we did not have access to current investment tax credits, industrial development bonds with their low interest rate, or the state pollution control tax credit, all of which are available in 1980. Therefore we committed to participation.

We did not have the opportunity to participate in the design, nor were our technical people, who have considerable experience in this field and in controlling costs, ever consulted. As a result, we had to accept the estimates of the consulting engineers for the sanitary district.

Our first real indication of problems came when the bids were opened: they exceeded the estimates by 32 percent, or nearly $20 million.

In addition, it became apparent that the municipal plant would not be able to handle our effluent in untreated form as originally planned. This may be because we did not supply information in the right form, or it may simply have occurred because we were not intimately involved in the design discussions—our communications may have been poor. The result, however, was that we had to install pretreatment facilities that added nearly a million dollars to our annual costs in 1979, the first full year of operation.

In 1974, we estimated that our own plant would cost about eight percent more to operate than we would pay to the sanitary district, for a saving of about $120,000 per year. In 1979, our estimated costs—including operations, depreciation and interest charges—would have been dramatically lower for self-treatment. Sanitary district charges exceeded estimates for our own plant by $1.4 million, or 57 percent. If ICR had been included, the difference would have been 87 percent higher than our self-treatment estimate, or $2.1 million. For 1980, still including depreciation and interest in our costs, the differences become even more staggering.

Our payment to the sanitary district, plus the pretreatment costs we did not anticipate in 1974, will amount to $4.4 million, which is $1.8 million, or 70 percent, more than our estimates for self-treatment. If ICR is added, the difference will go to $2.6 million, more than twice as much as we believe our own plant would cost, including operating costs and charges for depreciation and interest payments.

Now that we have agreed to participation in the district, and now that the standards for the St. Louis river have been changed, converting to self-treatment probably is out of the question for us. However, it is a real option for an industrial user who has not made a commitment. This is why I say the possibility of ICR expenses is a strong deterrent for an uncommitted company, and why local sanitary districts are handicapped in their efforts to recruit industrial users. All they need to do is look at our experience.

For Potlatch, this added cost of doing business is an obvious disadvantage. Our competitors have lower treatment costs than we at this point, and the only way we can absorb this difference is to forego a portion of our income. We can't recover the difference through higher prices, if we expect to attract or retain business.

Pulp mills are rated on tonnage; that is, our Cloquet plant produces about 450 tons of pulp per day. We compare costs on a per-ton basis, and we know that today our total water treatment costs are $25 per ton of pulp produced. For comparison purposes, the two other Potlatch pulp mills figure their costs of water treatment at $4.61 per ton in Arkansas, and $2.88 per ton in Idaho. For the whole industry, we are told that treatment costs average $10 to $18 per ton. The low figure in Idaho is due partly to the size of the mill, which is about two and one half times larger than Cloquet—but the Arkansas operation is rated at about the same size as Minnesota. At both Arkansas and Idaho the milder climates make a difference. Minnesota's extremely cold climate raises our costs, so we expect a difference, but not of that magnitude. We estimate that if we were self-treating today, our treatment costs could come to $17 per ton—on the high side in terms of the industry averages, but not out of line in a cold climate.

At Cloquet we manufacture a bleached pulp, which has a market price of about $350 per ton. Added costs of $7 to $15 per ton make a sustantial difference in the willingness of a customer to choose our pulp over a competitior's.

We do have some opportunity for reducing those costs, and we obviously have to take advantage of them. However, the degree to which we do is affected by the ICR payment, and our zealousness in reducing these costs will have an effect on our sanitary district and on all the other customers.

We face two types of charges from the sanitary district. One is the so-called operating and maintenance charge, the user charge paid by everyone, including homeowners. The other is the ICR charge. Both are affected by the volume of our discharge and its characteristics. The dependability of that flow, and the stability of its components, are critical to the operation of a water treatment plant. Municipal sewage has widely variable flows and characteristics. So the predictability of our discharge is valuable in planning. However, the degree to which we can reduce our flow relates to our costs.

We are operating a primary treatment plant now. We must ask courselves how much we must invest to make a significant saving in our payments to the district. The degree of urgency, and the amount we can spend, are directly related to the size of those charges. The difference now is $1.8 million, but will go to $2.6 million with ICR.

Our local district is aware of the dilemma faced by us and other industrial users, and, at our request, provided some information to illustrate what happens when companies are forced, by economic necessity, to withdraw from a public facility, or even to reduce their loadings substantially.

Those figures are attached to my statement as Addendum B. Because of our obligation to contribute to the funding of local debt service, our payments never could fall to zero, but we theroretically could reduce them by almost 85 percent. Other industrial users would see their charges go up by 62 percent, encouraging them to get out, as well. Sewer bills for homeowners would go up more than 50 percent, but the local taxpayer also would have to absorb a 50 percent increase in the charges to municipalities.

This is a worst case example, of course, and would not happen in our area unless we were forced to shut down our operation.

It does, however, illustrate the importance of industrial users to new districts in the planning stage.

It is feasible for us to consider reducing our flow and load by a third to two thirds, the other exmples on the chart. This could mean savings to us of 21 to 47 percent, with charges to other industry increasing from 12 to 31 percent, and 12 to 28 percent for residential connections.

Frankly, we have not conducted the expensive, detailed studies that would be necessary to decide how much reduction could be economically justified at various levels. The studies conducted by EPA persuaded us that ICR would be abandoned as a negative force in water legislation. If ICR is imposed, we must conduct those studies, along with every other user. For an operation not yet committed, figures like these will likely result in strong pressure to withhold that commitment.

The engine that drives this disruptive force is ICR. Without it, costs to industrial users still are higher than for self-treatment but probably not so high as to endanger the competitive position of a well-managed operation. Adding ICR makes the burden almost intolerable.

I suppose it might be possible to require every industrial user of water to join a sanitary district, if one were available, making everyone equal in his misery, but that wouldn't make for competitive equity, which was the purpose of this section of the law. Marginal operations still would face the threat of closure.

We do not have enough information to address all the aspects of the ICR question that were discussed in the studies undertaken by the federal government, and that were scheduled for discussion before this committee.

However, our experience is compelling in suggesting that an industrial user does not get an advantage over his competitor by participating in a publicly-owed treatment works. To the contrary, he suffers, competitively—even if ICR is not required.

We can testify that the water conservation objective is being met in our case by our need to reduce user charges, which means reduced flow, and the huge increases we have had to pay in pumping charges because of higher energy costs.

In terms of revenue loss to the federal government if ICR were eliminated, others far more expert than we have testified. I understand that if we did not pay ICR, we would pay the federal government almost as much through the corporate income tax rate, and our company would be healthier and more competitive.

Local jurisdictions, through their organizations, have testified overwhelmingly in oppsition to ICR. I can say only that they know their business far better than I do, but, to an outsider, it appears that the threat of losses from reductions in use or complete withdrawals is a far greater problem than the loss of these dollars. In the case of Potlatch alone, as the sanitary district's own figures show, this would be the case. By reducing our loadings only one third, district revenues would drop by $900,000, but its costs could be reduced by only about $250,000. The difference, $650,000 is considerably more than the district's share of ICR, which cannot be used for operations in any case For jurisdictions without facilities, or for those trying to attract new industrial customers, the ICR requirement is a major handicap.

In summary, Mr. Chairman, we can testify that the ICR concept threatens to make us less competitive. In an industry where margins are relatively small, this can be serious on a long term basis. We also can testify that it provides strong incentive to withdraw or draw back from a sanitary district, and it certainly would discourage us from considering that alternative if we had the choice today.

The local information available to us indicates the effects are just as serious, and just as negative, for the districts.

We are very grateful that Congress was skeptical enough in 1977 to foresee some of these problems and postpone the implementation of ICR payments. We hope that our confirmation of those doubts, along with the evidence supplied by other witnesses, will persuade you to recommend that the Congress make the moratorium permanent.

Thank you.

ADDENDUM A TO TESTIMONY OF R. N. CONGREVE

COST COMPARISONS: SELF-TREATMENT VS. PUBLIC FACILITY POTLATCH CORPORATION, CLOQUET, MINN.—PAYMENTS TO WESTERN LAKE SUPERIOR SANITARY DISTRICT

	1974 Estimates	1979 Actual	1980 Estimates
Operation and maintenance charge	$1,221,945	$2,866,805	$3,469,130
Pretreatment		993,737	1,000,000
Surcharge		50,567	
Present total	1,221,945	3,911,109	4,469,130
ICR total (Net)	359,300	756,600	807,172
Projected total	1,581,245	4,667,709	5,276,302
Self-treatment estimates (operating costs plus funding of debt)	1,710,000	2,494,000	2,620,000

Sources: Potlatch Corp., Western Lake Superior Sanitary District, and National Council for Air and Stream Improvement.

Water treatment costs per ton of pulp produced, 1979

Lewiston	**$2.88**
McGehee	**4.61**
Industry average	**10-18**
Cloquet:	
Pretreatment	**6.45**
WLSSD	**18.94**
Present cost	**25.39**
ICR	**4.91**
Projected total	**30.30**

Sources: Potlatch Corp., Western Lake Superior Sanitary District, and National Council for Air and Stream Improvement.

ADDENDUM B TO TESTIMONY OF R. N. CONGREVE

WESTERN LAKE SUPERIOR SANITARY DISTRICT—EVALUATION OF INDUSTRIAL (POTLATCH) PARTICIPATION IN WASTEWATER TREATMENT FACILITIES, FEB. 27, 1980

	Basis I flow/load at current levels	Basis II potlatch flow/load at two-thirds current levels	Basis III potlatch flow/load at one-third current levels	Basis IV no flow/load from potlatch
Municipal—costs:				
Operations/maintenance	2,729,137	3,121,050	3,679,644	4,493,363
Debt service	1,112,677	1,112,677	1,112,677	1,112,677
Credits	(327,634)	(314,491)	(300,865)	(287,636)
Net	3,514,180	3,919,236	4,491,456	5,318,404
Reserve capacity charged to municipalities:				
Debt service	165,514	208,612	212,518	212,518
Credits	(7,927)	(7,527)	(5,065)	(2,538)
Net	157,587	201,065	207,453	209,980
Total municipalities	3,671,767	4,120,321	4,698,909	5,528,384

WESTERN LAKE SUPERIOR SANITARY DISTRICT—EVALUATION OF INDUSTRIAL (POTLATCH) PARTICIPATION IN WASTEWATER TREATMENT FACILITIES, FEB. 27, 1980—Continued

	Basis I flow/load at current levels	Basis II potlatch flow/load at two-thirds current levels	Basis III potlatch flow/load at one-third current levels	Basis IV no flow/load from potlatch
Potlatch:				
Operations/maintenance	2,764,986	2,174,457	1,309,920	....
Debt service	751,147	708,049	704,144	704,144
Industrial cost recovery	839,152	563,413	277,540	....
Credits	(35,974)	(25,546)	(16,782)	(8,410)
Net	4,319,311	3,420,373	2,274,821	695,734
Other industries:				
Operations/maintenance	1,060,677	1,259,292	1,565,235	2,061,221
Debt service	305,004	305,004	305,004	305,004
Industrial cost recovery	278,810	278,810	278,810	278,810
Credits	(14,608)	(11,004)	(7,269)	(3,642)
Net	1,629,883	1,832,102	2,141,780	2,641,393
Total industries	5,949,194	5,252,475	4,416,601	3,337,127
Total	9,620,961	9,372,796	9,115,510	8,865,511

Note.—No reduction in operations and maintenance cost is reflected as the significant portion of such costs is fixed. Offsetting that portion which is variable may be additional costs of adding alum to treat a potential phosphorous imbalance.

Source: Western Lake Superior Sanitary District.

Mr. Roberts. Please proceed.

TESTIMONY OF RICHARD N. CONGREVE, VICE PRESIDENT AND GENERAL MANAGER, NORTHWEST PAPER DIVISION, POTLATCH CORP., ACCOMPANIED BY EDWARD ERICKSON, PLANT MANAGER; PATRICK NORHA, MANAGER OF OPERATIONS CONTROL; AND WILLIAM OPSAHL, VICE PRESIDENT, SUPERWOOD CORP., DULUTH, MINN.

Mr. Congreve. I will, sir. And we thank you for this opportunity to be here.

To my right is Mr. Ed Erickson, who is the plant manager of our Cloquet operations which is specifically involved today with the Western Lake Superior Sanitary District. To my left is Mr. Patrick Norha, our manager of operations control, and the gentleman to his left is Mr. Bill Opsahl, who is the vice president of Superwood Corp., located in Duluth, Minn. All these gentlemen will be glad to respond to any inquiries you or the subcommittee may have.

We have previously submitted a written statement and my remarks today, in the interest of time, will be brief comments in further support of those recorded conclusions.

I am, as you introduced me, Dick Congreve, vice president of Potlatch Corp. and general manager of its northwest paper division.

Since January of 1979, process waters from our pulp and paper operations at Cloquet, Minn., have been treated by the Western Lake Superior Sanitary District.

In the Western Lake Superior Sanitary District we are, by far, the largest participant and the largest of four industrial users in the system. Our experience, without ICR costs, shows that industrial participation in a publicly owned treatment works is far more expensive than self-treatment. As a result, the imposition of ICR would further disadvantage companies like ours rather than to merely equalize the competition, one of the original purposes of the ICR.

Those of us served by public plants must find ways to reduce the charges we pay to remain competitive. Companies not yet involved have a powerful incentive to stay away. This is contrary to the concept of areawide water treatment, raising costs for residential and other users, in some cases making the plants uneconomical to build for lack of volume.

The district that serves us covers 11 municipalities in a 500 square mile area, and we are told that the plant would have been uneconomical to build without us. We believe strongly in the regional concept, and we encouraged this from its very beginning in 1969.

In 1974, district figures indicated our payments to the district would be about equal to the cost of running our own plant, including depreciation and interest costs. The original construction bids, when they did come in, were 32 percent higher than the estimates. The differences have become much worse, however, with finished capital costs now at over $100 million as opposed to an original $60 million planned.

In 1979, the first full operating year, actual costs were more than 50 percent higher than our own plant would have cost according to our updated estimates of self-treatment.

If we had paid ICR the difference would have been over 80 percent. For 1980, this year we're currently in, the differences with ICR increase even further.

Our industry figures water treatment costs on a ton of pulp produced. The national averages now range from $10 to $18 per ton of cost. At Potlatch, we have a large mill in Lewiston, Idaho where costs with a self-treatment plant are under $3 per ton. In Arkansas, a new mill about the same size as the one at Cloquet, we have costs just slightly under $5 per ton. For Cloquet, we have made estimates that would put total costs for self-treatment at about $17 per ton, not unreasonable in our very cold climate.

Our actual costs in 1979 were $25.39 per ton of pulp. ICR would have added another $5 per ton. We think we can save money by adding equipment to recirculate or pretreat our water, but any investments will have to be balanced against savings. Elimination of ICR in gross terms would have about the same effect for us as a one-third reduction in our discharge to the district. Other users would not be adversely effected.

Calculations show actual loading reductions of 33 percent would require our investment, but would reduce our ICR payments the same percentage. Our user charge would fall only 20 percent, however, because the district's per unit cost would be higher without one-third of our load. Both residential and other industrial users would pay 12 percent higher charges if we were to do that.

It is not our intention to withdraw completely. If we did, we would still have some basic capital cost commitments that we have contracted for. However, theoretically, if we financed our own plant and continued capital payments to the district, our cost could be 25 percent lower than it is now. The public would have to pay

50 percent higher rates, and other industry users' bills would increase 62 percent, giving them a powerful incentive to follow, too.

The situation is a serious one for us. Bleached pulp, our product at Cloquet, sells for about $350 a ton in a very competitive market, where a few dollars make a big difference. We now must cover water treatment costs that are from $7 to $15 a ton higher than our competitors.

It is an equally serious situation for the waste treatment districts, including those still in the planning stage. For rural districts such as ours, the success of a regional plant depends on the predictable volume and characteristics of industrial flows in addition to the industrial income.

If industrial users are compelled by economics to reduce their participation, this could be disruptive. If those same economic considerations make it impossible for regional plants to attract industrial users, some of them may never be built.

In summary, our experience conclusively demonstrates that, one, ICR is not required to assure competitive parity between users and nonusers of publicly owned treatment works, and secondly, ICR is an added cost to participation in high-cost, complex municipal systems and will be a strong disincentive for future industry, municipal cooperative efforts, to create the POTW's.

Thank you very much. We would be glad to answer any kind of questions or inquiries.

Mr. Roberts. Thank you.

I'm wondering about your comparison, where you say that plant was scheduled to cost, I believe, $60 million, and it was $100 million?

Mr. Congreve. Yes, sir, 110.

Mr. Roberts. Because of the escalation of costs, wouldn't yours have been the same percentage?

Mr. Congreve. Yes, sir. In the formal—not exactly the same percentage. But in the formal presentation we gave you—and I have some charts here on that——

Mr. Roberts. I have them here.

Mr. Congreve. You will note that in our 1974 anticipations, we show there that with those original $60 million costs for the district, that our projected total cost would have been $1,581,000 a year, and that for self-treatment, if we had done it ourselves, it would have cost $1,710,000.

Today our self-treatment cost we estimate to be $2,620,000.

Mr. Roberts. Knowing that ICR was on the books as Federal law, when you made that contract you must have figured the industrial cost recovery in the determining of whether you were going to tie into that local plant or not.

Mr. Congreve. Yes, sir, we did. On the chart we display that as an anticipated $359,000 a year expense for us in arriving at our comparable costs.

Mr. Roberts. You were talking about pulp at Cloquet. Do you go ahead and make paper out of it there, or ship it somewhere else?

Mr. Congreve. We do both, sir. We make——

Mr. Roberts. What is your cost in terms of pound of paper? We have had a lot of people testify and they're telling us, in terms of cost, that it costs them so much per pound of paper. Frankly, that has run from $0.27 to $1.08 a pound.

Mr. **Congreve**. I have been in the industry 33 years, sir, and it depends an awful lot of the type of paper that you make. We would have papers——

Mr. **Roberts**. I'm talking about white bleached paper.

Mr. **Congreve**. Just a plain white piece of paper like this [indicating] would—and ours is all chemically treated pulp—would be the $0.27 if you stayed there. But if we actually, as we do—we make a whole range of grades of paper, make very fine, printing coated papers, that would run as high as $0.40 a pound, or $800 a ton. So it's in that range.

Mr. **Roberts**. It would still be far below what most of them have told us it would cost.

Mr. **Congreve**. Again, there are specialty papers that could run substantially higher than that, sir.

Mr. **Roberts**. Thank you very much.

The gentleman from Minnesota.

Mr. **Oberstar**. Thank you, Mr. Chairman.

I would like to inquire, going back in a period of time when the Western Lake Superior Sanitary District was being planned, I would like to inquire what were the inducements offered to Potlatch and other industrial users to join the system? And at that early point, was industrial cost recovery a major consideration in your decision on whether or not to join?

Mr. **Congreve**. I would have to go back, if I could, Congressman, to 1969, where the initial discussions took place because we recognized that we were going to be faced at that time with the necessity of either our own self-treatment operation, or some method of treating the discharges from our Cloquet property. It was at that time that we discussed openly our needs and also found that the local municipality areas, particularly surrounding Duluth, this 500-square mile area, had a very similar problem. Many of our people, some 1,500 of our employees, live in the Cloquet area, also were raising concerns.

It was the interest in trying to do something jointly that had come forth with basically no additional cost to our corporation at that time, and that was our initial incentive to join into the system. We were very encouraged with some of the work that had been demonstrated elsewhere in the country, and elected to proceed with the necessary engineering studies on our part on what would have to be done and we accepted what was being done on the part of the proposed sanitary district.

Mr. **Oberstar**. Let me interrupt at that point.

Were there not some inducements made on the part of the proponents of the sanitary district that participation by Potlatch and other wood-processing industries would lead to economies of scale of treatment and be to efficiencies in treatment because of the mix of wastes? Was that not a consideration that was offered at the time, so that there were two-way benefits, that there was no increased cost to your company of participating over doing it on your own, but also a benefit to the system and on that basis your participation was invited?

Mr. CONGREVE. It was a benefit to the system, but specifically the benefit to Potlatch really was only the community participation. There were really no substantial economic advantages to Potlatch to participate, other than to be a part of a total system. That was basically our incentive in that particular area.

Then it went forward from that point, and as costs started to escalate and the potential concern of how we would eventually be charged, it led to, in 1973, our recorded anticipated withdrawal from the system and to start our own pretreatment system, because we were very concerned with the total costs.

It was then that further meetings, further consideration toward what our costs would be, different approaches to pumping systems, different approaches to pretreatment, it was a total communitywide effort and concern on what were going to be the requirements for any discharge directly into the St. Louis River. The combination of all those factors, with the anticipation that we could expect about an equal cost, led us to reconsider. As a matter of fact, our records demonstrate we could have saved approximately $120,000 out of what then was going to be roughly $1.4 million of anticipated annual cost, that we moved right ahead.

It was shortly thereafter in 1975 when we reassessed our situation, when some of their engineering started to take place that we were not participating in—this is the district that had now been legislated, now had our contract. We again reviewed the opportunity to withdraw and it became very apparent that if we did so, we would scuttle the whole project. We elected, on that basis, to continue to pursue, recognizing at that time, with industrial cost recovery, it was going to cost us more money. But recognizing we would have the stability of a municipal system to accept the discharges, rather than perhaps changing environmental requirements on the river, we elected to go ahead.

It was after that that all these escalation of costs surfaced, and after that—incidentally, further delays required to accommodate the sanitary district escalated the cost even further, beyond what was already a 32-percent increase from the original bid estimates—all those added to the fact that by the time we connected in January of last year, our performance is demonstrated in the figures that have been submitted.

Mr. OBERSTAR. I think that history is very important to have in mind, as a classic case example of how this provision of the legislation affects industries and public-owned treatment works alike.

Now, those figures that you cited show a total cost of treatment at your Arkansas plant at $4.61, as compared to $4.91 alone for ICR at Cloquet.

Mr. CONGREVE. That's right, sir. Those are actual experiences in our own company.

Mr. OBERSTAR. Are those comparable size facilities?

Mr. CONGREVE. In Arkansas, this is a very new, modern facility. It started up in 1978. It handles 450 tons a day. In Cloquet it's 450 tons a day.

Mr. OBERSTAR. Well, that raises the question, then, does ICR disadvantage participating versus a nonparticipating industry? The argument made earlier by EPA is that there is a disadvantage to those who build their own treatment works as compared to those industries that participate in a publicly owned treatment works. This appears to show just the opposite.

Mr. **Congreve**. In our company, in our industry, supporting what the gentleman from the National Council for Air and Stream Improvement said, that has not been our experience. Quite to the contrary, it is much more expensive to participate in the one municipal sanitary district that we do.

Mr. **Oberstar**. A public-owned treatment works, if I could further the opposite argument for a moment, there you have, in effect, in our State, a 90 percent grant, with 75 percent Federal funds and 15 percent from the State of Minnesota. An industry, if it was to build its facilities either directly out of profits or out of loans that it floats on the open market, or borrows in some other fashion, if an industry participates in a publicly owned treatment works, aren't they, in effect, getting an interest-free loan on that grant money?

In that situation, how then is it possible to have a higher cost for participating in a public-owned treatment work as compared to building it on your own and holding your own loan funds on the private financial market?

I think it goes right to the heart of this principal question, or basic philosophy, of the ICR concept.

Mr. **Congreve**. Yes, sir, it does. I will do my best to react to that and perhaps some of my colleagues will do better than I, who are more financially oriented.

Speaking from the engineering side of it, the facilities that we require for an industrial facility, as I believe previously testified by others here at this table earlier today, are much simpler, much more attuned direct to the specifics of the discharge that a paper mill will have, and not nearly so sophisticated, requiring less capital and requiring less numbers of people to operate——

Mr. **Roberts**. Will the gentleman yield?

Mr. **Oberstar**. Yes.

Mr. **Roberts**. There is one other factor, though, that no one has mentioned. You start turning your effluent out of your own plant into a stream. You have got nine lawsuits and a $500,000 fine in 30 days. Nobody has said a word about that. You are buying insurance on this. If they're going to sue anybody, they're going to sue that city and not you. There is no way to get around that.

Mr. **Congreve**. May I address that, sir?

Mr. **Robert**. Surely.

Mr. **Congreve**. This plant started in 1898, and it was as you were saying, discharging into the river and facing the lawsuits or, let's say, the new societal obligations that we had. In either case, we had to do something, either to treat our own or put it into some kind of a facility that would handle it, because in our case in Cloquet we're talking roughly 13 million gallons a day as to what we're treating.

Even with the lawsuit exposures to the sanitary district, there is a clause in the contract that says if any of that discharge is not in compliance and is attributable to us as a discharging source, we must address the full accountability for that out of compliance in both cost and correction, and that that is an obligation that we were never relieved of in our contract.

Mr. **Roberts**. I had never heard of that clause.

Mr. **Congreve**. Would you like me to try the money again?

Mr. **Oberstar**. Try explaining it.

Mr. **Congreve**. Recognizing that we could put in a manufacturing facility treatment plant for substantially less money. we would require less capital, a less amount of this so-called free capital that you identified as interest-free.

But even more importantly, all of those basic costs of the system, the costs of operating the system are less. We operate the system, for example, in Lewiston, Idaho, where we are now producing some 1,200 tons a day of pulp and paper, and I indicated our costs there are under $3 a ton. We are operating there with a nominal workshift of one person per shift, and that's just strictly an operation where the person monitors what is taking place. It's a part of an integrated operation that is ongoing.

There is no difference at the situation in McGehee, Arkansas where we have the new facility. In Cloquet, we have a similar one-person-per-shift operation, with an additional technical person now monitoring to be sure what we are discharging into the pumping station, which incidentally pumps the effluent approximately 25 miles from our location to the western Lake Superior Sanitary District located in Duluth—for treatment, and that's why we try and monitor that very closely as to where we are.

This is opposed to a substantially different level of manning—and I'm not familiar with the latest figures on manning in the Duluth operation. But I want to say—Maybe Pat, you can——

Mr. **Norha**. I think it's over 120, or in that neighborhood. It was originally estimated it would be in the 90's.

Mr. **Congreve**. And it's this difference, Congressman, that the operating costs start to far outweigh even the availability of the capital on some kind of an interest-free basis. And as demonstrated again through our chart, we feel grossly estimating because of our cold climate, which incidentally makes it more difficult to reduce the BOD of the effluent, that we would have a cost approximating $17 a ton up in northern Minnesota, that we now are at $25 a ton plus without ICR, and would be over $30 a ton with ICR.

That operating and maintenance cost, incidentally, does include the local debt retirement for that portion of the capacity that we had agreed to participate in.

Mr. **Oberstar**. It does present very much of a paradox, that we are getting industry involved and participating in a system which is to have a public benefit but which costs—both in its initial construction and in its continuing operation—a great deal more than anybody ever expected. It involves, in fact, a disincentive or disadvantage to one firm within a given corporation, as compared to other segments. The question that raises then is, does ICR become a consideration on the part of major corporations in deciding where to locate new plant capacities.

Mr. **Congreve**. Would you like me to respond to that?

Mr. **Oberstar**. Yes.

Mr. **Congreve**. Yes, sir, I think it would, particularly if there was some kind of a compelling activity that said—and basically, you might say we very closely approximated that in our joining the western Lake Superior Sanitary District—that said if there is a municipal district within reasonable distance, you must participate; if you did that, the tendency would be to locate plants in a more rural, remote area, such as where we are in McGehee, Ark., where we're like hundreds of miles from any place.

Mr. Oberstar. I might have other questions, but I think you have covered the heart of this issue, and for that I do thank you very much for your presentation.

Mr. Congreve. It's our pleasure, sir.

Mr. Clausen. Mr. Chairman, I want to apologize to the witnesses for not being able to be here during the whole course of the testimony. I want you to know that I will read and go over with the staff all of your input.

I will have some questions that I want to submit to you in writing, to save some time here, because as you know, our purpose is to try to get a comprehensive record and I want to go over this with the staff so we may take advantage of your on-the-spot operation and expertise.

Mr. Congreve. We would be glad to share it, sir.

Mr. Clausen. Okay. Thank you.

Mr. Roberts. Mr. Congreve, we thank you for coming and bringing your support team and giving us the advantage of this information, as the gentleman from California said.

I can't reconcile in my mind the reason for the difference in cost, so we may need some information on that. Otherwise, we'll be as brief as we can on our questions.

Thank you for coming and remaining with us through this drawn-out period.

Mr. Congreve. It is our pleasure, and we appreciate the opportunity to participate.

Mr. Clausen. You are very knowledgeable on this subject and it has been excellent testimony. In your ability to respond to the questions coming from that fellow Oberstar, you have got to be especially sharp to respond to his questions.

Mr. Congreve. We get them often, sir, I want you to know.

Mr. Roberts. Thank you.

We have to take time out here. We have an automatic roll call.

When we return, we will have the National Association of Manufacturers, and then the New England Interstate Water Pollution Control Commission and Miss Savage from the Association of State and Interstate Water Pollution Control Agencies. That will be our last panel for the day.

The subcommittee will be in recess for about 15 minutes.

[Whereupon, the subcommittee was in recess.]

Mr. Roberts. The Chair would like to announce we are in a series of votes and it's going to go on for a long time. We would like to try to get our group at the table and we'll proceed as rapidly as possible, to try to get through before the next vote.

Our next witness is Mr. Jensen of the National Association of Manufacturers. Your prepared statement will appear in the record at this point.

[Statement referred to follows:]

Statement of the National Association of Manufacturers, Presented by Harold L. Jensen, Warner-Lambert Pharmaceutical Co.

I am Harold Jensen, Manager of Environmental Control, Warner-Lambert Pharmaceutical Co., appearing today on behalf of the National Association of Manufacturers (NAM). NAM is a voluntary membership organization of more then 12,000 companies engagd in manufacturing in the United States. Together, these companies produce approximately 80 percent of all goods manufactured in this country. NAM is affiliated with an additional 158,000 companies through the National Industrial Council and NAM's Association Department. We appreciate this opportunity to testify on H.R. 6667, and specifically on Industrial Cost Recovery, or ICR.

The rationale supporting a presumed national policy favoring regional wastewater treatment plants is based on economies of scale achieveable by large treatment plants, technical advantages possible through favorable interactions of industrial and municipal wastes, administrative ease from the standpoint of water pollution control, and the fact that large regional plants can more readily maintain a full complement of highly trained operating and management personnel and can call on trained industrial personnel for supplemental help. Failure to employ trained personnel has been identified by the General Accounting Office as one of the weaknesses in the national water pollution control program.

Unfortunately, the federal government keeps changing the economics involved in such plants through on-again off-again cost recovery schemes and yearly changes in funding programs. This leads to reevaluation of projects, with resultant delays and perhaps abandonment, even after they have been designed and engineered. The best way to encourage something is to provide a framework of economic certainty. The best way to discourage something is to create economic uncertainty surrounding it. Economic uncertainty can discourage cities and industries from getting together to solve water pollution control problems.

The history of this problem dates back before the Federal Water Pollution Control Act of 1972, Public Law 92-500. In implementing a provision of the pre-1972 statute that no construction grants for publicly-owned treatment works (POTWs) be made unless the applicant made provisions "for assuring proper and efficient operation and maintenance of the treatment works," the Secretary of the Interior on March 31, 1970, proposed, and three months later adopted without change, a regulation prescribing prinicples for assessing costs upon dischargers of industrial wastes. The regulation included the following statement:

"Such system shall provide for an equitable assessment of costs whereby such assessments upon dischargers of industrial wastes correspond to the costs of the waste treatment, taking into account the volume and strength of the industrial, domestic, commercial wastes, and all other discharges treated, and techniques of treatment required. Such cost recovery systems shall produce revenues, in proportion to the percentage of industrial wastes . . . relative to the total waste load to be treated by the project, for the operation and maintenance of the treatment works, for the amortization of the applicant's indebtedness for the cost of such treatment works, and for such additional costs as may be necessary to assure adequate waste treatment on a continuing basis."

NAM filed a statement on those regulations which, a decade later, remains an accurate summation of the Association's position. At that time, NAM said:

"These provisions completely ignore the role which industrial companies frequently play as major taxpayers and providers of employment in communities and areas where their plants are located. As major taxpayers, these companies perforce bear a proportionate share of the construction cost and operating and maintenance cost of municipally based wastewater treatment plants. As providers of employment, they make possible other sources of tax revenues for municipalities."

The ICR program was given a statutory foundation by the 1972 Federal Water Pollution Control Act. Problems of administrative feasibility, among other major problems, prompted Congress in the 1977 Clean Water Act to place an 18 month moratorium on further ICR payments, with deferred payments accumulating until the moratorium was lifted. The moratorium was extended in December 1979 (almost six months after the initial one lapsed) until June 1980. During the first 18 month period, an EPA contractor undertook a study of "the efficiency of, and need for" Industrial Cost Recovery. The study, required by the 1977 statute, offered *prima facie* evidence that ICR was not meeting the four legislated objectives of promoting: Water conservation; parity in sewage treatment costs between direct and indirect dischargers; sufficient POTW capacity; and grantee self-sufficiency in providing financing for future expansion.

It is not our intention, considering the time allotted, to cite chapter and verse of the seven volume EPA "Report to Congress: Industrial Cost Recovery." It is enough to note that the initial draft report, submitted to EPA by the contractor, Coopers &

Lybrand, recommended the elimination of ICR. The agency then submitted a watered down version of the study to Congress in January 1979, acknowledging only that "the Industrial Cost Recovery provisions of P.L. 92-500 have not accomplished their legislative purposes." It was the Administration's position at that time that the moratorium should continue for an additional two years so that the problems encountered could be worked out.

NAM interprets this to mean additional study, additional delay, and additional uncertainty for municipal grantees and industrial users of POTWs. We also see this as an attempt to find a way to discount and discredit the Coopers & Lyband study and reimpose double taxation on industrial indirect dischargers.

In conclusion, NAM would like to repeat and endorse the statement of the Agency of Environmental Conservation, State of Vermont, a participant in the 1978 study.

"An industry is as much a part of the community as a homeowner, shop owner, drug store, school, or church, and therefore should be treated no differently with respect to receiving the benefits of federal construction grants."

NAM strongly supports the repeal of the Industrial Cost Recovery provisions of the Federal Water Pollution Control Act, and urges all members of this Committee and the House of Representatives to vote for H.R. 6667. The goal of enhanced water quality has not been in the past, nor will it be in the future, served by the perpetuation of a system which places the overwhelming burden of pollution control financing on a single segment of the community.

Thank you.

Mr. **Roberts**. Mr. Jensen, would you proceed, please, sir.

TESTIMONY OF HAROLD L. JENSEN, MANAGER OF ENVIRONMENTAL CONTROL, WARNER-LAMBERT PHARMACEUTICAL CO., ON BEHALF OF THE NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. **Jensen**. Thank you, Mr. Chairman.

Mr. **Roberts**. Of course, you understand that you don't have to read it all. It will appear in full print. Do whatever suits you.

Mr. **Jensen**. Thank you very much. Good afternoon.

I am Harold Jensen, manager of Environmental Control, Warner-Lambert Pharmaceutical Co., appearing today on behalf of the National Association of Manufacturers, NAM.

Many of the points raised in the prepared testimony which has been previously submitted are items that have already been covered today.

Some of these items are related to the history and delays, moritoriums, et cetera, and the fact that the four main objectives of ICR, which I wish to direct my comments to, have not been met by the program, as pointed out by Coopers & Lybrand.

What I would like to do in a few moments of your time is to point out some of my thoughts on what I heard Mr. Beck say this morning, and also to reflect on a couple of points that might have come out through questions from you and others.

What I heard Mr. Beck say today is a continuation of the tinkering with the ICR program, tinkering with the same system that we have had for 8 years, the same system that, as pointed out by your consultant, could not meet the objectives.

Some of the fine points that he presented might be changed, such as going from the 25,000 gallons per day to 50,000 gallons per day, was not really a substantive change. That's why I use the word tinkering.

A key point that was brought out by Mr. Beck to support his position is the providing of advanced funding for future expansion. During the discussion that has taken place today, we talked about, or it was discussed about five different terminologies for categories of funding. I would like to list those. I think Mr. Beck got some of them confused, at least they were confused in my mind.

On one side you might say there are three categories of funding. There is the cost that goes to the operation and maintenance of a treatment plant; there is the cost that goes toward the debt payment of the locally funded portion of the treatment plant, the capital; and then there is the portion that some industries pay, which we call surcharges. This is to pay for the extra amount of treating or waste that might be above and beyond the normal domestic categories.

These three functions of funding or user charges are a part of everyday life as far as the industry is concerned, and as members of the community, we feel it is only proper as good citizens that we should be paying this. We are paying for our fair share.

On the other side of the board is ICR, which is divided into two sections. Essentially, it is the payment of capital funding that was supplied by industry, and that goes, one, to the Federal coffers, which was originally created by general taxation, of which industry already has supplied the funds. Therefore, this is a double taxation on industry.

The other portion of the ICR fund stays within the community. This is the point that Mr. Beck pressed fairly strongly, saying that the funds should be squirreled away for future expansion or upgrading of the treatment plant. Well, in our present money market conditions, I don't think it is a good use of capital resources of industry to be putting that money away to be used 10 years hence.

I also am not fully assured that the money that my company might be putting in, or anybody's company might be putting into a community, that money will be ready when my company is ready to expand. It might be used for somebody else.

So I think the ICR concept is a system that is really not needed. In general, it has been pointed out several times today, that the concept should be abolished. NAM strongly supports the repeal of ICR and urges each member of this committee and the House as a whole to vote against H.R. 6667.

I think it's time to terminate the program, and it has been pointed out several times, and I think it's time for us to stop tinkering.

Thank you.

Mr. **Roberts**. I need to correct you in a couple of regards. First, the only way you're going to get rid of ICR is if H.R. 6667 passes. You said you wanted to oppose it. You mean to vote for it.

Another thing, I disagree with you rather violently, although I'm the author of the bill, that if the city in which you're operating needs a 10 million-gallon plant, but because of you it has to build a 20 million-gallon plant, that you shouldn't pay for it and that that's double taxation, or double charges. I disagree with that violently.

If you don't carry your own weight, nobody else can be expected to carry it for you. I'm sure you didn't mean that, and that's why I brought it back to you.

Mr. **Jensen**. What I'm saying is that double taxation is paying the Federal's funds back.

Mr. ROBERTS. If it hadn't been for the Federal advancing the funds, it wouldn't have been there. It's a loan, and I'm the sponsor of the bill to take it off. But there is no such thing as a free cup of coffee is what I'm trying to say.

Thank you for coming, and thank you for waiting patiently for us.

Mr. JENSEN. You're welcome.

Mr. ROBERTS. Now, if we may have our last panel—we regret, of course, that we have people coming from thousands of miles away and then something like this happens. We simply can't help it. So that's why I'm trying to rush along, so we don't have to have you stay over until tomorrow.

Mr. Peloquin and Ms. Savage, we're glad to have you here.

The complete text of your prepared statement will appear in the record at his point.

[Statement referred to follows:]

STATEMENT OF NEIWPCC, PRESENTED BY ALFRED E. PELOQUIN, EXECUTIVE SECRETARY

Mr. Chairman, the New England Interstate Water Pollution Control Commission greatly appreciates the opportunity of appearing before this Committee to express its views on H.R. 6667. My statement is being presented on behalf of our Compact-member States, namely the six New England States and New York State.

Our States have been greatly concerned with the expiring authorization and commend the sponsors of the Bill for taking early action to assure that progress in attaining the goals and objectives of the Clean Water Act will continue without interruption. Our Compact-member States support a two-year extension of authorizations, at the levels specified in the Act for the fiscal year ending September 30, 1980, for Sections 104(u), 106, 112, 208(f) and 517. The States also support a two-year extension of the authorization date for Sections 208(j)(9) and 314. However we have had very limited experience with contracts for best management plans under Section 208(j)(9) and do not feel qualified to recommend a specific level of funding for this section. The States have no objection to extending the same $400 million authorization. With regard to Section 314, and with due consideration to the level of lake restoration activity in the region, our States believe that an authorization of $100 to $120 million would appear more appropriate for this section.

I should note that all of our States are gravely concerned about the disparity between the continuously decreasing level of appropriations and program needs as mandated by the Act and its attendant requirements, but recognize that this is a matter to be addressed in the appropriations hearings. The level of authorization we recommend and support would allow for the appropriation of funds at a level that would more adequately satisfy resource needs.

We would also like to call to the Committee's attention the fact that all States have participated with EPA in a needs assessment study aimed at determining resource needs, under Sections 106, 208 and 314, for achieving the goals and objectives of the Act. It is my understanding that data from the study have been made available to this Committee. From a preliminary analysis, it would appear that a 106 authorization of $100 million will be satisfactory for fiscal years 1981 and 1982 but an authorization in excess of $200 million will be necessary, subsequent to 1982, if the water pollution control program is to remain viable.

Appended to this statement, for the Committee's consideration, is the Needs Assessment summary sheet showing total funds needed by the six New England States only, for specific program activities for fiscal year 1981 and 1982. It should be explained that the figures shown for construction grants management are the amounts, in excess of Section 205(g) grants, needed by the States for construction grants management. This additional amount must, of necessity, come from Section 106 funds.

While EPA is expecting the States to play an ever increasing role in managing the water pollution control program the level of Federal assistance, in addition to being reduced, is being impacted by inflation. For example, the purchasing power of the Federal dollar in 1979 was 72 percent of its value in 1975 dollars. Water quality programs considered critical with regard to funding support include NPDES delegations, groundwater programs, wasteload allocations, pretreatment, quality assurance, construction grant management, and long-range planning. We recommend that the Committee incorporate into H.R. 6667 a mechansim for "indexing" the water pollution control program to some Department of Commerce economic indicator index which would provide guidance for a level of future authorization that may keep pace with the rising cost of State management of the water pollution control program.

Our Compact-member States have consistently supported repeal of the industrial cost recovery (ICR) provisions of PL 92-500 and therefore support the amendatory language of HR 6667 addressing this requirement. In the States' view, industry in a community pays its proportionate share of municipal operation costs through its tax payments to the community, and imposing the ICR pay-back provisions on the industry is tantamount to double charging toward the cost of amortizing the treatment facility bond issue. Further, the consultant study conducted for EPA has concluded that "ICR does not satisfy any of the three purposes set forth in the legislative history" to maintain parity between users in payment of sewage treatment costs, to control the design and construction of excess future capacity and to encourage water conservation. The study conclusions supplement the State rationale in supporting repeal of the ICR requirements.

It is my understanding that ICR payments have been made in only one of our Compact-member States. These payments were made under court order and are being held in escrow. If other payments have been made, decisions will have to be made as to an appropriate course of action for disposition of such funds. The short notice relative to the scheduling of this hearing precluded adequate discussion of the issue with our States. Consequently, I would hope that the hearing record will be kept open for a period of time to enable us to submit supplemental views on this issue, and possibly others as related to this bill, Our Commission meets on March 20 and we should be able to submit additional views as may be appropriate a few days thereafter.

In closing, I would like to express our appreciation for House action in passing HR 4113. We are particularly concerned with the need for authorizations and appropriations for the two-tier funding provisions of that bill. At the present time, four of our seven States would qualify for a supplemental allocation under the second tier funding. Our States support the provisions of HR 4113 and are presently encouraging their respective Senators to take actions to have the legislation considered in the Senate.

Thank you Mr. Chairman. This concludes my statement.

REGION I. NEEDS ASSESSMENT SUMMARY SHEET

A. Total funding needs identified in the needs assessment

On the table below, include total funding needs from each problem/program section of the guidance for each year from fiscal year 1979 to fiscal year 1984.

TOTAL FUNDS

[In thousands of dollars]

Problem/program section	Fiscal year—					
	1979	1980	1981	1982	1983	1984
Construction grants management			650	926		
Point source permits			1,408	1,895		
Compliance evaluation			552	860		
Enforcement			767	858		
General and point source WQM planning			1,236	1,088		
NPS planning and implementation			4,072	4,136		
Monitoring			3,061	3,122		
Municipal facilities operations and maintenance; training			903	991		
Emergency response			2,315	2,265		
Pretreatment			407	421		
314 clean lakes			4,135	5,858		
WQM program management			508	541		
Other program activities			307	309		
Total			20,321	23,320		
Federal share total			11,243	12,911		
(a) Section 106			6,434	7,288		

TOTAL FUNDS—Continued

[In thousands of dollars]

Problem/program section	Fiscal year—					
	1979	1980	1981	1982	1983	1984
(b) Section 208			2,431	2,346		
(c) Section 314			2,378	3,277		

Mr. ROBERTS. Please proceed.

TESTIMONY OF ALFRED E. PELOQUIN, EXECUTIVE SECRETARY, NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION, ACCOMPANIED BY ROBBI J. SAVAGE, EXECUTIVE DIRECTOR, ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL ADMINISTRATORS

Mr. PELOQUIN. We appreciate that, Mr. Chairman.

I am Alfred E. Peloquin, executive secretary of the New England Interstate Water Pollution Control Commission, and I have with me Ms. Robbi Savage, who is executive director for the Association of State and Interstate Water Pollution Control Administrators.

I would like to ask Ms. Savage to make a few comments before I go into my statement on behalf of organization, Mr. Chairman.

Mr. ROBERTS. All right. Ms. Savage.

Ms. SAVAGE. Mr. Chairman, though we have written testimony for submission to the record, I would like to take just a moment to express our support for your bill, H.R. 6667.

As you know, section 106, State management assistance, is the heart of the State program. Section 106 funds are now being used by States to conduct monitoring programs, to enforce NPDS permit requirements, and to train State staffs for operation and maintenance activities as well as the general management of State efforts.

As demonstrated by the recent needs assessment completed by the USEPA in cooperation with our association, the State 106 program is a critical link to the administration of the State program. We urge your continued support of this most important section of the act.

As I testified before the House Oversight and Review Committee in July, the States favor the EPA strategy to direct the 208 program toward solving problems. As you know, the States were initially less than enthusiastic about section 208. However, many State administrators are increasingly aware of the positive aspects of this program and we urge your continued support.

Rather than continue to list the various sections that we support, I will conclude by saying that we are intrigued by the EPA proposal on industrial cost recovery and we will review and comment to the committee at a later date.

Mr. ROBERTS. Thank you.

Mr. PELOQUIN. Thank you Mr. Chairman, and if I may, I would like to request that testimony prepared by the ASIWPCA president, Mr. Charles Jeter, also be accepted for the record.

Mr. ROBERTS. So ordered.

[Statement referred to follows:]

STATE AND INTERSTATE AGENCY FUNDING NEEDS REQUIRED TO IMPLEMENT THE CLEAN WATER ACT, SUBMITTED ON BEHALF OF THE ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL ADMINISTRATORS, BY CHARLES R. JETER, PRESIDENT, ASIWPCA CHIEF, BUREAU OF WASTEWATER AND STREAM QUALITY CONTROL, SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

INTRODUCTION

The Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) is composed of those individuals from State and Interstate Agencies that have the primary responsibility for the water pollutiion control programs. Basically, ASIWPCA supports an extension of authorization at the levels specified in the Clean Water Act for Sections 106, 208, and 314. However, we believe that given the present budget level realities, the funding levels proposed by the Administration are sufficient *except* in the case of the Section 106 funds. We believe that immediate funding relief is necessary under Section 106 if we are to move forward with implementation of the objectives of the Clean Water Act.

LEGISLATIVE HISTORY

Congress, in passing the Federal Water Pollution Control Act of 1972 (Clean Water Act), stated in the declaration of goals and policy that: "It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution . . ." Section 106 of this Act provides grants to States and Interstate Agencies "to assist them in administering programs for the prevention, reduction, and elimination of pollution . . ." The Act "authorized to be appropriated" 60 million for fiscal year 1973, 75 million for fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, and 100 million per fiscal year for the fiscal years 1977, 1978, 1979, and 1980.

USE OF FUNDS

The basic Section 106 grant is the most important single mechanism to implement the goals of the Clean Water Act. The grant is used by States and Interstate Agencies for programs dictated by the act to include the following:

(*a*) Enforcement of delegated portions of the Clean Water Act.

(*b*) Compliance monitoring of wastewater discharges and ambient monitoring of all waters to include laboratory requirements.

(*c*) Administration of the National Pollutants Discharge Elimination System Permits in States that have received delegation (33).

(*d*) Inspections of wastewater treatment facilities.

(*e*) Operation and maintenance evaluations and technical assistance.

(*f*) Water quality management planning to include the use of predictive models to determine the levels of treatment needs to protect water quality and studies to verify and calibrate the models.

(*g*) Assumption of the Section 404 (dredge and fill) permit program in those States that request delegation.

(*h*) Development of emergency response efforts to react quickly to environmental emergencies such as spills of oil or toxic materials.

(*i*) Implementation of State pretreatment programs as required by the Clean Water Act.

The functions listed are essentially the primary activities required to implement the provisions of the Clean Water Act. The 106 program is the heart of the implementation of this Act. We have gotten more for our money out of the funding under Section 106 than any funds provided under other provisions of the Clean Water Act or other environmental legislation. It is the program where the real day to day, tough fight to insure water quality protection is located.

FUNDING HISTORY

The Federal funding for 106 has been as follows:

	Appropriated	Obligated[1]
Fiscal year:		
1972	15.0	15.0
1973	20.0	20.0
1974	40.0	40.0
1975	48.5	48.5
1976	50.0	50.0

	Appropriated	Obligated[1]
1977	50.0	50.0
1978	52.4	52.4
1979	52.4	52.4
1980	48.7	

[1] As of Jan. 1, 1980

Source: EPA.

In addition, the states have historically contributed on the average about twice the amount as Federal funds under this program. Not only has the support for this program lagged well below the rate of inflation, but also the mandates under the Clean Water Act for additional State activities have increased dramatically.

This has led to a situation where the mandates and the money don't match. The States are in a crisis situation with no satisfactory options left. They could decide to abandon certain provisions of the Act and reduce manpower. However, the States feel, as Congress directed, that they have a basic responsibility to administer the water pollution control programs.

Table A shows the history of funding on the State and Federal level for the water pollution control programs covered under Section 106. Several points should be emphasized. First, State support is approximately twice the Federal Section 106 grants. Next, Federal support has been virtually the same since 1975 and in fact decreased from fiscal year 1979 to fiscal year 1980. During this same period, the States were faced with a skyrocketing inflation rate and increasing demands—imposed mostly by the Federal government—on water pollution control program requirements. In terms of inflation, it has been estimated that the EPA requested Section 106 appropriation of $48.73 million for fiscal year 1981 has the purchasing power of $29 million in 1972 dollars. In the area of additional program requirements, the States have been faced with extensive enforcement loads to include tracking of thousands of NPDES permits and a significant increase in legal actions, much more extensive field and analytical procedures particularly in the area of toxic controls, complex effluent guidelines, emergency response programs, development of pre-treatment programs, and possible Section 404 dredge and fill permit programs. The administrative and public participation requirements associated with all these programs has been extensive and costly. Finally, with all these additional program mandates, the total constant dollars designated for 106 have deceased.

FUNDING NEEDS

The critical question is how much money is necesary for appropriate 106 funding. Recently, EPA did a needs analysis of this program. In testimony supplied to Congress, EPA indicated the following:

Total needs.—By 1984, States conservatively estimate that water pollution control needs in constant fiscal year 1980 dollars will increase from $146 million in fiscal year 1980 to $227 million. Assuming the Federal proportionate share of the national program remains at the fiscal year 1979 level (33 percent) $81 million would be attributable to 106.

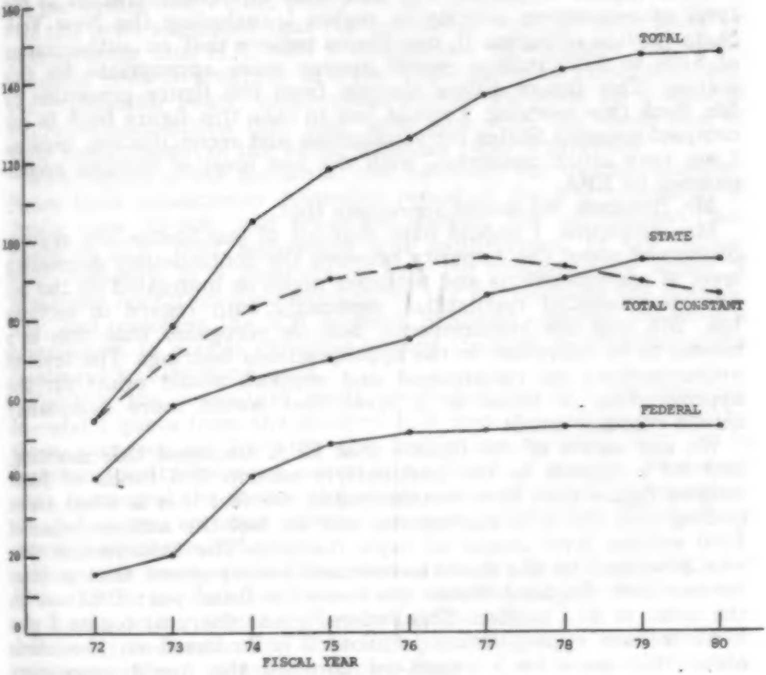
This is a conservative estimate of long-term needs. We believe that some immediate relief is necessary in the Section 106 program. Supplemental information concerning a detailed analysis of State needs from the recent needs assessment done by EPA with State assistance support this position.

CONCLUSION

It should be emphasized that we understand the financial situations faced in both the national and State budgets. Tough decisions must be made, priorities must be set to get the most for the money, and cuts must be made in some non-essential programs. For these reasons, we submit that the money needs under Section 106 have historically done the most good for water quality protection for minimal costs. The States are now in a situation where the mandates and money don't match. Without greater funding support in this program, the Clean Water Act provisions will suffer serious setbacks.

TABLE A

106 FUNDING



(Source, EPA)

Mr. Roberts. Mr. Peloquin, you may proceed.

Mr. Peloquin. Mr. Chairman, the New England Interstate Water Pollution Control Commission greatly appreciates the opportunity of appearing before this committee to express its views on H.R. 6667. My statement is being presented on behalf of the six New England States and New York State who are members of our compact.

Our States have been greatly concerned with the expiring authorizations and commend the sponsors of the bill for taking early action to assure that the program will continue without interruption, in the hope of achieving the goals and objectives of the Clean Water Act.

Our compact-member States support a 2-year extension of authorizations at the levels specified in the act for the fiscal year ending September 30, 1980, for sections 104(u), 106, 112, 208(f) and 517. The States also support a 2-year extension of the authorization date for sections 208(j)(9) and 314.

However, we have had very little experience with contracts for best management plans under section 208(j)(9) and really do not feel qualified to recommend a specific level of funding for that section.

With regard to section 314 and with due consideration to the level of restoration activity in region I, including the New York State portion of region II, our States believe that an authorization of $100 to $120 million would appear more appropriate for this section. This figure differs sharply from the figure presented by Mr. Beck this morning. I would like to take this figure back to our compact-member States for verification and reconciliation, because I am very much concerned with the low level of funding recommended by EPA.

Mr. Roberts. We would appreciate that.

Mr. Peloquin. I should note that all of our States are gravely concerned about the disparity between the continuously decreasing level of appropriations and program needs as mandated by the act and its attendant regulations, especially with regard to sections 106, 207 and 208 requirements, but we recognize that this is a matter to be addressed in the appropriations hearings. The level of authorizations we recommend and support would allow for the appropriation of funds at a level that would more adequately satisfy resource needs.

We are aware of the figures that EPA discussed this morning, and with regards to the particularly section 106 funds of $48.7 million figure that they recommended, we feel this is what we're getting now but it is inadequate, and we feel the authorization of $100 million level would be more realistic. The information that was developed by the needs assessment survey shows that at least for our New England States the needs for fiscal year 1981 are on the order of $6.4 million. The Federal grant share to region I of a $48.7 million appropriation is about 3.7. So based on the needs alone that have been expressed through the needs assessment survey, we feel that this justifies an authorization of $100 million for the 106 funds.

It is my understanding that data from the needs assessment survey have been made available to this committee. I have attached as an appendix to the statement the total figures for fiscal years 1981, 1982, for region I. The needs assessment indicates that subsequent to 1982 we will most likely have to have an authorization in excess of $200 million to meet the needs of or to satisfy the needs if the water pollution control program is to remain viable. This is in the section 106 funding.

It should be explained also that the figures shown for construction grants management in the attached table are amounts in excess of the 205(g) grant funds that are made available to the States for managing construction grants programs, which funds have to come from section 106 authorization, because the funds received now under 205 are inadequate to completely manage the entire construction grants program.

While EPA is expecting the States to play an everincreasing role in managing the water pollution control program, the level of Federal assistance, in addition to being reduced, is being impacted by inflation. As an example, the purchasing power of the Federal dollar in 1979 was 72 percent of its value in 1975. I understand that the $48.7 million allocation for 106 currently has the purchasing power of about $29 million in 1972 dollars, so the amount of money being made available is remaining fairly constant, but the needs are increasing and we are really losing the battle.

It has been suggested that the committee consider developing or incorporating into H.R. 6667 a mechanism for indexing the water pollution control program to some Department of Commerce economic indicator index, which could provide guidance for a level of future authorizations that may keep pace with the rising cost of State management of the water pollution control program.

With regard to the industrial cost recovery, our compact-member States have consistently supported repeal of the ICR provisions of Public Law 92-500, and therefore support the amendatory language of H.R. 6667 addressing this requirement. In the States' view, industry in a community pays its proportionate share of municipal operation costs through its tax payments to the community, and imposing the ICR payback provisions on the industry is tantamount to double charging toward the cost of amortizing the treatment facility bond issue.

Further, the consultant study conducted for EPA has concluded—and I quote from the study—"ICR does not satisfy any of the three purposes set forth in the legislative history", that is, to maintain parity between users in payment of sewage treatment costs, to control the design and construction of excess future capacity and so on, an issue which has been adequately discussed by previous witnesses today.

So on the basis of the State view, plus the consultant study for EPA, the States feel that that study supplements the State rationale in supporting repeal of these requirements.

It is my understanding that ICR payments have been made in only one of our compact-member States. These payments were made under court order and are being held in escrow. If other payments have been made, decisions will have to be made as to an appropriate course of action for disposition of such funds.

The short notice relative to the scheduling of this hearing precluded adequate discussion of the issue with our States. Consequently, I would hope that the hearing record will be kept open for a period of time to enable us to submit supplemental views on this issue and possibly others within the context of the proposed bill.

Our commission meets on March 20, and we should be able to submit additional views as may be appropriate a few days thereafter.

In closing, Mr. Chairman, I would like to express our appreciation for House action in passing H.R. 4113. We are particularly concerned with the need for authorizations and appropriations for the two-tier funding provisions of that bill. At the present time, four of our seven States would qualify for a supplemental allocation under the second-tier funding. Our States support the provisions of H.R. 4113 and are presently encouraging their respective Senators to take actions to have the legislation considered in the Senate.

Thank you, sir.

Mr. ROBERTS. Thank you, Mr. Peloquin.

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I am sorry to bring bad news, but Senator Muskie says that will never be taken up in the committee and I will stand by his judgment.

Ms. **Savage**. We're working on it.

Mr. **Peloquin**. We're working on it, sir.

Mr. **Roberts**. Without objection, the record will be kept open for 2 weeks in order to include other statements that are being submitted for the record.

Counsel has a question, I believe, from one of the other members.

Mr. **Toohey**. Mr. Cleveland asked me to express his regret that he couldn't be here to hear your testimony, but he did stop by and pick up your statement already, so he will read it.

He did also ask that we direct a question to you, which is, Could you provide an estimate of the amount of 106 funds that would be diverted to supplement the lack of 205(g) funding by the four States that would qualify under the two-tier mechanism?

Mr. **Peloquin**. The 106 funds that would be diverted to other—

Mr. **Toohey**. Diverted from 106 to shore up 205(g).

Mr. **Peloquin**. The figures shown on the table, the region I needs assessment summary sheet, in the two columns, for construction grants management it is $650 million and $926 million. Those are the figures for the region I States, the six New England States, and my understanding from talking with the regional office personnel is that this is the amount of 106 funds that are going into the 205(g) activity.

Mr. **Toohey**. Would it be possible to break that down by State?

Mr. **Peloquin**. Yes. I have a breakdown and I can give it to you before I leave.

Mr. **Toohey**. Thank you very much.

Thank you, Mr. Chairman.

Mr. **Roberts**. That will conclude officially the hearings we have.

[Whereupon, at 3:34 p.m., the subcommittee was adjourned.]

ADDITIONS TO THE RECORD

JK 3618

RECEIVED
FEB 20 1980
PUBLIC WORKS AND TRANSPORTATION COMMITTEE

February 15, 1980

The Honorable Harold T. Johnson
Chairman, Public Works and Transportation
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Johnson:

Enclosed is a policy statement recently approved by the Executive Committee of the Water Pollution Control Federation, proposing that the Industrial Cost Recovery (ICR) provisions of the Clean Water Act (PL 95-217) be eliminated.

The Water Pollution Control Federation is composed of 30,000 men and women devoted full time to the development and dissemination of technical information concerning the nature, collection, treatment, and disposal of domestic and industrial wastewater.

From the broad base of its membership the Water Pollution Control Federation obtained consistent documentation that the ICR provisions as now contained in PL 95-217, if administered, will cause significant problems and will not lead to what is believed to be the intent of the Congress, i.e. to provide a mechanism that will produce parity between direct and indirect industrial dischargers.

The Water Pollution Control Federation studied this matter some years ago and first expressed its opposition to the ICR provisions of the Act in 1974, as then written. In the current study its membership continues to believe that ICR creates a disparity between direct and indirect industrial dischargers and urges the Congress to correct this disparity prior to July 1, 1980 when the present moratorium ends.

Sincerely yours,

Robert A. Canham

Robert A. Canham

RAC:mcs
enclosure

POLICY STATEMENT
ON REPEAL OF THE INDUSTRIAL COST RECOVERY PROVISIONS
OF THE CLEAN WATER ACT

The Executive Committee of the Federation, after considering the broad views of the membership, has adopted the following policy statement

While the 1972 Amendments to the Federal Water Pollution Control Act mandated the establishment of an industrial cost recovery (ICR) system for industrial dischargers to publicly owned treatment works, Congress in the 1977 Clean Water Act Amendments responded to legitimate misgivings about the worth of ICR by providing for an 18-month moratorium on imposition of the system. At the same time, Congress directed the Environmental Protection Agency to conduct a study to determine the need for and efficiency of ICR.

That study, prepared under contract to EPA by the accounting firm of Coopers & Lybrand, basically concluded that "ICR does not substantially satisfy any of the three purposes set forth in the legislative history" to maintain parity between users in payment of sewage treatment costs, to control the design and construction of excess future capacity, and to encourage water conservation.

At the time that report was issued, the Water Pollution Control Federation endorsed those findings and on that basis recommended elimination of the statutory ICR provisions.

In December 1979, Congress extended the ICR moratorium to July 1, 1980, directing EPA to devise new recommendations on resolution of the ICR issue. Preliminary indications are that the Environmental Protection Agency intends to recommend to Congress that ICR be retained as necessary to achievement of parity, with the possibility of further recommending that all ICR revenues be retained by municipalities and that ICR be selectively applied in instances where administrative costs will not outweigh revenues from the system.

Because the extension of the moratorium has only delayed minimally a congressional decision on retention or repeal of the ICR provision, the Water Pollution Control Federation wishes at this time to reiterate its support for elimination of the requirement. The Federation has seen no substantive refutation of the basic conclusions of EPA's own study of the ICR issue. The study concluded that imposition of ICR will create disparity rather than parity between direct and indirect industrial dischargers. The passage of 12 months since original issuance of the Coopers & Lybrand report has not presented any new evidence to change that basic conclusion.

During 1973 and 1974 the Water Pollution Control Federation held a series of meetings throughout the country to evaluate the status of PL 92-500. One of the many findings which resulted from those hearings was an overwhelming opposition to the ICR provision of the Act. The Federation's policy statement adopted in October, 1974 reflected this opposition to ICR. Again in October, 1977 the Federation adopted recommended changes to PL 92-500 and reiterated its opposition to the ICR provisions.

Municipalities must have sufficient revenues to operate, maintain and manage their sewage treatment facilities. At the same time, municipalities obviously must provide for future expansion and rehabilitation of those facilities. A comprehensive and equitable user charge system, whether it be based on ad valorem taxation or some other method, deriving its revenues from industrial, residential, and commercial users, can provide the municipalities with the necessary funds. Rather than attempting to impose an inequitable ICR system which holds the potential of creating an administrative nightmare for already-overburdened municipal governments and for industrial users, the Environmental Protection Agency should strive to insure that municipalities are designing and carrying out an equitable user charge system whose revenues are strictly dedicated to operation, maintenance, management, and future rehabilitation and expansion. To do otherwise will unfairly strain the governmental resources of the municipalities; will place industrial users at a possible competitive disadvantage with other industry; and could contribute to financial pressures on some industries to relocate, further eroding municipal tax bases.

For these reasons, the Water Pollution Control Federation recommends elimination of the ICR provisions of the Clean Water Act.

Adopted by the Executive Committee

January 14, 1980

NATIONAL ASSOCIATION OF MANUFACTURERS

NAM

JOHN J. CASTELLANI
Vice President & Manager
Resources & Technology Department

March 26, 1980

RECEIVED
MAR 26 1980
PUBLIC WORKS AND TRANSPORTATION COMMITTEE

The Honorable Ray Roberts
Chairman, Subcommittee on
Water Resources
Committee on Public Works
and Transportation
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Roberts:

On March 12, 1980, Mr. Harold Jensen, Warner-Lambert Pharmaceutical Co., appeared before your subcommittee on behalf of the National Association of Manufacturers (NAM) to testify in favor of the repeal of the Industrial Cost Recovery (ICR) provisions of the Federal Water Pollution Control Act. The Environmental Protection Agency (EPA), represented by Assistant Administrator Eckardt Beck, also presented testimony on ICR at that time. Unlike other scheduled witnesses who were required to comply with Rule VII(b), which states that written statements must be filed with the Clerk of the Committee "at least two working days before the day of his appearance," Mr. Beck and EPA made their testimony available just minutes before its presentation. As a result, NAM was unable to study EPA's "preliminary thoughts" and respond to them. We are now prepared to make a response, and respectfully request that it be made a part of the record.

Mr. Beck on March 12 offered three "options" for changing the current ICR system for the subcommittee's consideration, as follows:

--increase the flow exemption from 25,000 gallons per day (GPD) to 50,000 GPD of equivalent sanitary waste;

--exempt municipal grantees from ICR program requirements upon a satisfactory showing that ICR revenues are not needed in meeting long-range obligations for treatment system improvement or rehabilitation; and,

--permit grantees to avoid ICR requirements if industrial capacity financing is not sought from the federal government.

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In NAM's view, these adjustments are cosmetic at best, and do not change the original intent of the program or the attainability of the program's objectives, which are water conservation, parity in sewage treatment costs, sufficient treatment works capacity, and grantee self-sufficiency in providing financing for future expansion.

Doubling the daily flow exemption to 50,000 GPD, NAM believes, would result in only a very small reduction in the number of indirect dischargers which would be subject to ICR, and EPA's testimony bears this out. "As an additional increment to the existing statutory limitation of 25,000 GPD," EPA acknowledges, "it would exclude an additional 6 percent of industry while reducing receipts by 4 percent." This translates to a very meager decrease in the administrative problems experienced by municipalities charged with collecting ICR payments.

The second option, the lifting of ICR requirements when a grantee can show that projected ICR revenues will be insignificant or unnecessary in meeting long-range obligations, is an extension of the thinking that creates a need to justify an existing program. ICR is not needed to insure that municipalities have these capabilities. EPA seems to be saying that companies should maintain publicly-owned treatment works (POTWs) in good repair if the city chooses not to fund these repairs in its budget. It should be noted that these necessary repairs were intended to be funded in large part by user charges, with which we have no quarrel. Any necessary future improvements or rehabilitation, therefore, could be met by adjusted user charges; they are not justification for continuing ICR.

The last option, permitting grantees to avoid ICR requirements if industrial capacity financing is not sought from the federal government, is justified by EPA in part by the statement that "there is no contractual obligation on the part of an industry to remain with a POTW after construction is complete, even though capacity has been incorporated for industrial use." This is technically correct; grants do not require a contractual obligation. But from a practical operating viewpoint, most municipalities do in fact require such an obligation. Sewer use ordinances and bond issuers will in many cases require a contractual promise from the industrial user that it remain in the POTW for a specified period of time. To do otherwise would invite individual companies to elect to join and withdraw from POTWs at will, resulting in widely fluctuating sewer rates. EPA should take a close look at what the practices of its municipal grantees are before it makes such an assertion.

If ICR were to go back into effect when the current moratorium is lifted this summer, and no changes were made in the system as it existed when the first moratorium was put in place in 1977, for every ICR dollar paid by a company whch participates in a POTW, the breakdown would be as follows:

--local administrative costs	10¢
--retained at locality	45¢
--returned to U.S. Treasury	45¢

If ICR were not to go back into effect this summer, but instead repealed, the federal income tax on this added dollar of profit would be approximately 40¢. The nickel's worth of difference would be further narrowed because any administrative costs incurred by EPA under ICR would be eliminated.

Companies which participate in a POTW pay for its support in a number of ways. They pay user charges for operation and maintenance, local debt payment, and for monitoring and special services such as treatment of wastes of extra concentration. These charges and payments are not ICR.

ICR funds that are retained at the grantee level are (1) the 10%, which can and often is, used for the same purposes mentioned above and is small compared to what is needed, and (2) the 45%, which is a fund for future expansion or upgrading so that the federal grant program can eventually be terminated. NAM agrees with the objective of establishing limits to any federal grant program. However, the ICR program is not the proper way to finance future growth, considering today's cost of money. Nor is it the best way to use industry's capital. Further, there is no assurance that the capital put into the local fund will be available when the company needs it for its future expansion.

No other segment of the community is required to put away money for the future growth of a POTW. Industry should only be required to pay for the capacity it uses or has in reserve, as do the other members of the community. Companies that treat their own wastewater, and do not utilize POTWs, pay only for operating treatment plants and would consider it financially unwise to establish a "set aside," as ICR requires, for future needs.

Thank you for the consideration of our views.

Sincerely,

John J. Castellani
Vice President & Manager
Resources & Technology Department

JCG:mal

JK
3664

STATE OF NEW YORK

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MAR 4 1980

LEGISLATURE OF ERIE COUNTY
CLERK'S OFFICE

File

BUFFALO, N. Y., February 26 19 80

TO WHOM IT MAY CONCERN:

I Hereby Certify. *That at the* 5th *Session of the Legislature of Erie County, held in the County Hall, in the City of Buffalo, on the* twenty-first *day of* February *A.D., 19*80 *a Resolution was adopted of which the following is a true copy:*

WHEREAS, all municipalities providing sewer services under PL 92-500 are required by the federal government to institute an Industrial Cost Recovery system, and

WHEREAS, the prohibitive cost of ICR could force industries to become direct dischargers, thus removing them from treatment works originally designed large enough to handle the volume of industrial wastes, and

WHEREAS, the domestic population would then have to bear the burden of paying debt service on capital costs for overcapacity sewer facilities as well as the increased cost of the industrial products, and

WHEREAS, an ICR system can cause economic inequities within and between sewer districts, and

WHEREAS, an ICR system is very difficult and expensive to implement and operate, and

WHEREAS, the United States Congress has extended the moratorium on collection of ICR payments until July 1, 1980 but if no action is taken before July 1980 the ICR system will automatically become effective,

NOW, THEREFORE, BE IT

RESOLVED, that Congress and the Environmental Protection Agency be memorialized to rescind the Industrial Cost Recovery (ICR) requirement of PL 92-500, and be it further

RESOLVED that certified copies be sent to Congressmen Jack Kemp; Henry Nowak; John La Falce; and Senators Daniel P. Moynihan; and Jacob Javits; and to the President of the United States; the United States Senate, Committee on Environment and Public Works, Subcommittee on Environmental Pollution; the United States House of Representatives, Committee on Public Works and Transportation, Subcommittee on Water Resources; the United States Environmental Protection Agency; and the Erie County Department of Environment and Planning.

Marie Richardson
Legislator, 19th District

ATTEST

Clerk of the Legislature of Erie County

REFERENCE: Int. 4-30

[illegible]

STATEMENT OF DONALD O. DENCKER, OSCAR MAYER & CO., FOR THE AMERICAN MEAT INSTITUTE ON INDUSTRIAL COST RECOVERY

As Chairman of the Environmental Committee of the American Meat Institute, a national trade association for the U.S. meat packing industry, offer these comments on the Industrial Cost Recovery (ICR) provisions of the Clean Water Act.

The American Meat Institute has long supported repeal of the ICR provisions of the Clean Water Act. Our members have found that ICR is nothing more than double taxation which places an onerous burden on meat slaughtering and manufacturing establishments attempting to continue their operations in American cities.

We appreciate the two ICR moratoriums which Congress has granted to give the U.S. Environmental Protection Agency time to evaluate the effectiveness of ICR. The first moratorium was granted to allow time for an EPA recommendation. During this moratorium, a clear factual case was made to abolish ICR. In spite of the facts, and consensus, EPA could not bring itself to recommend abolition of ICR.

Faced with EPA's refusal to acknowledge the universal conclusion that the best course of action was abolition, Congress provided a second moratorium so that EPA could formally submit its recommendations to Congress when the new session began in January 1980.

Again, we find that EPA did not meet a congressional mandate, but came forth this month with certain options which it has under analysis. This is another example of dilatory tactics that are damaging the economic viability of this Nation.

The March 18, 1980 statement of Mr. Eckardt Beck, EPA Assistant Administrator for Water and Waste Management, presented some preliminary thoughts on the options under study by the EPA. Our comments are directed at these preliminary thoughts resulting from the forever on-going EPA evaluation.

1. Mr. Beck states that their review makes it appear that industrial users of POTWs do enjoy some degree of subsidy. We wonder how their review makes this appearance come about? Our members find just the opposite. We know that there is no such thing as absolute equality, but, on balance, meat industry plants discharging to POTW's are at a financial disadvantage to those facilities located outside areas served by POTW's. This is because those served by POTW's do not have an on-land disposal option.

2. We share Mr. Beck's concern about the ability of municipalities to make necessary operational improvements and facility replacements. However, fairness alone demands that these requirements be borne by all users of POTW's, not just the industrial cost recovery segment. His recommendation to try to cure an illness by the wrong medicine would compound the problem and delay the solution.

3. Mr. Beck suggests that one potential option would be to increase the flow exemption from 25,000 gallons per day to 50,000 gallons per day equivalent sanitary waste as a means of lessening the administrative burden. We strenously

object to another descriminatory adjustment to the ICR provisions. The EPA Administrator, Mr. Douglas Costle, has stated that this approach is inequitable, so why make it more so? We attach for reference a copy of Mr. Costle's letter of January 25, 1979 to Vice President Mondale on ICR.

4. Mr. Beck suggests that the ICR program might be modified so that grantees might be exempt from the ICR program provided the grantees can demonstrate that ICR revenues are not needed in meeting long-range obligations for treatment system improvement or rehabilitation. Again, we objected to this discriminatory approach. We agree with the stated long-range objective, but believe that it is obvious that the ICR provisions can not be in anyway modified to achieve the stated objective. This should be the responsibility of all users of the POTW system.

5. Mr. Beck suggested another option that grantees could avoid ICR requirements if industrial capacity is not financed in anyway by the Federal Government. This to us is totally unfair! What Mr. Beck is saying is that industry should pay their taxes, but they had better not seek to share in the use to which this portion of their taxes is dedicated.

6. Mr. Beck presents still another idea by suggesting consideration of an ICR modification whereby industry would be required to enter into binding contracts for

specified treatment capacity under the ICR program with interest charged to industry geared to prevailing rates on Federal securities. Again, this is another discriminatory proposal which has little merit considering today's high interest rates. Fairness dictates that any approach of this nature must be applicable to all users, industrial, residential, commercial and governmental alike.

We understand the current concern in Congress towards adoption of any measure which would reduce Federal Government income. This is not what would happen with the abolition of ICR in that increased tax yield to the Federal Government would at least equal income loss, while the net drain on the economy due to the heavy administrative cost burden would disappear.

Mr. Costle's letter of January 29, 1979 estimates that ICR payment recovered by the U.S. Treasury would be $30 million per year. This total is minute in the overall U.S. Government treasury, but would be individually overwhelming for many existing meat industry plants located in municipalities. The picture is particularly bleak for retention of ICR-impacted older plants in older urban locations.

We appreciate this opportunity to comment during these Industrial Cost Recovery hearing proceedings. We believe that the time has arrived to take positive action to abolish ICR. This can and should be accomplished by the enactment of legislation such as H.R. 6667, which was introduced in the House of Representatives on February 28, 1980.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 2 5 1979

THE ADMINISTRATOR

Honorable Walter F. Mondale
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The Environmental Protection Agency (EPA) is pleased to submit to the Congress its report on the study of the efficiency of, and the need for, Industrial Cost Recovery (ICR). This study and its report was directed by the Congress in section 75 of the Clean Water Act of 1977 (Public Law 95-217). This study was conducted with the fullest public participation achieved to date by EPA in any major study. A broad spectrum of industrial, environmental, civic, and governmental organizations were actively and voluntarily involved in the decision-making process throughout the project.

Based on the data available, the study concludes that the ICR provisions of section 204(b)(1) of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) are not effective in accomplishing their legislative purposes. It should be realized that the ICR Study took place early in the actual implementation of the ICR program, and that there is only a limited quantity of actual data available. However, the following trends were discernible:

- Changes in the tax laws have largely mooted the question of the Construction Grants Program being a subsidy to industries utilizing publicly-owned treatment works.
- ICR has had only a minor impact upon water conservation, when compared to the effects of proportionate user charges. In most cases, ICR has had an insignificant impact on industrial decision-making.
- ICR has been extremely difficult to manage for both grantees and EPA, and will continue to be a resource intensive activity, if ICR is continued. ICR tends to be more of a managerial burden in small communities than in large communities.

- o The exemption for industries with flows of 25,000 gallons or less per day makes the program somewhat more manageable for grantees, but is inequitable because many industries are exempted from ICR based only on size.

- o With the exception of small communities with very large industrial flows, ICR produces little discretionary revenue for most local governments, particularly when revenues are compared with local costs of administering ICR.

- o ICR is a 30-year program after the construction is completed. During this period, the industrial payment recovered to the U.S. Treasury is estimated to be $30 million per year.

- o The user charge system is effective in accomplishing the bulk of the aims of ICR, especially on inducing waste reduction or water conservation.

Specific legislation is being considered for the legislative package to Congress. I trust that the report proves fully satisfactory to you and the Committee. If you have additional questions, please contact me.

Sincerely yours,

Douglas M. Costle

socma

SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION, INC.
1612 K STREET, N.W., SUITE 308, WASHINGTON, DC 20006 • (202) 659-0060

May 6, 1980

Mr. John Doyle
Committee on Public Works
  and Transportation
2165 Rayburn House Office Bldg.
Washington, D.C. 20515

Dear John:

We appreciate the opportunity we had to meet with you and Michael Toohey on April 25th. As indicated by Michael Wallace, Engineering Services, Sandoz Color and Chemicals and Chairman of SOCMA's Environmental Quality Committee he developed data on the consequence of Industrial Cost Recovery (ICR) to organic chemical industry users of publicly owned treatment works (POTW).

SOCMA is a nonprofit trade association of organic chemical manufacturers. Its more than 100 members produce a wide variety of organic chemicals. Many of its members are small companies, often located in urban areas, which discharge their effluents into publicly owned treatment works. They are, therefore, concerned with the recent EPA proposal that the ICR program go into effect when the current moratorium expires on June 30th.

The data presented here have been developed by Michael Wallace. His analysis of EPA's change in position from its own seven volume, Report to Congress on Industrial Cost Recovery, prepared for EPA by Coopers & Lybrand, can only be viewed as a final attempt to halt repeal of ICR.

The data show that: a) the cost distribution associated with the EPA proposed 50,000 gallons per day (GPD) effluent exemption does not significantly change up to 1,000,000 GPD thus showing the EPA proposed 50,000 GPD exemption to be arbitrary; b) furthermore, addition of ICR would disproportionately increase the cost burden that 1,000,000 GPD or less discharge would bear; c) in terms of total effluent treatment costs (pretreatment, POTW operation and maintenance, and ICR) to the organic chemical industry ICR is not significant. SOCMA concurs with the conclusions of the original Coopers & Lybrand report - that the entire ICR program should be repealed.

The data summarized below show that ICR charges are a very small fraction of total treatment costs. The percentage of ICR costs to total treatment, given two types of pretreatment, for high and low volume POTW's does not exceed 8% and up to one million GPD does not exceed 6% of the total effluent treatment costs.

ICR CHARGES AS A PERCENTAGE OF TOTAL TREATMENT COST

	(MILLIONS OF GALLONS PER DAY EFFLUENT)					
	0.05	0.1	0.5	1.0	5.	10.
Basic Pretreatment/ Low Volume POTW	4%	4%	6%	6%	-	-
Advanced Pretreatment/ Low Volume POTW	3%	3%	4%	5%	-	-
Basic Pretreatment/ High Volume POTW	2%	4%	5%	5%	6%	8%
Advanced Pretreatment/ High Volume POTW	1%	1%	3%	4%	6%	6%

The present EPA position on ICR will provide little or no relief to even the small manufacturer in the organic chemical industry.

SOCMA views ICR as part of a much larger problem recently brought to light by a January 22nd report, "Capital Formation and Retention", of the House Small Business Subcommittee on Access to Equity Capital and Business Opportunities which states:

"Capital expenditures costs for pollution abatement are especially onerous for small business. Department of Commerce data indicate that in 1977 almost 39 percent of pollution abatement capital expenditures were incurred by firms which employ less than 500 employees. Almost 60 percent of these expenditures were incurred by firms with less than 1,000 employees. It is clear that capital costs, coupled with legal and consulting fees necessary for compliance, place a heavy burden on a small firm's cash flow, since small companies generally pay more for capital, have higher debt/equity ratios and, therefore, require more frequent financing."

The attached Exhibits "A" through "D" present data for dischargers from 100,000 GPD to 10,000,000 GPD and were calculated from the following sources:

Pretreatment Capital Cost - a) FWPOA report dated July, 1968 "Cost of Conventional and Advanced Treatment of Wastewaters" by Robert Smith, b) EPA report dated July, 1971 "Wastewater Treatment Plant Control" by Robert Smith, and c) EPA report, "Wastewater Treatment Costs Estimating Program" dated April, 1971 by Richard G. Eilers and Robert Smith. The construction and operating costs in these reports have been updated to the present by the appropriate cost indices. The waste type for which the costs were calculated is typical of multiproduct, batch operated synthetic organic chemical production facilities.

User Charge Costs - Calculated from an average of 1975 user charges from POTW's for Chicago, Illinois; Lincoln, Nebraska; and Middlesex, New Jersey. The costs have been updated by the appropriate cost index.

ICR Charge Cost - Calculated as a fixed averaged percentage of the user charge.

It is important to note that the cost figures are for pretreatment of pollutants down to parts per million. Significantly greater costs will be incurred if pretreatment into the parts per billion range is required. Also note that the numbers in parenthese above each of the charges are the respective percentages of the Total Yearly Treatment Cost (Item 7.0).

Exhibits "B" through "H" - are plots of data presented in Exhibits "A" through "D". The curves are extrapolated to 50,000 GPD (the proposed EPA exemption limit). In addition, data generated from spot checks of SOCMA members and various local POTW systems are entered on the plots. These latter data are lettered, each letter indicating a different source. The spot check data corroborates closely the plots of the calculated values.

As stated in our opening comments, the above discussion and the attached exhibits show that the ICR program places an arbitrarily determined and disproportionately large economic burden on SOCMA member companies. Again, SOCMA recommends repeal of the Industrial Cost Recovery program.

Sincerely,

Leonard J. Guarraia, Ph.D.
Director, Government Affairs

cc: Michael Toohey
Phillip Cummings
Sally Walker
Jacqueline Schafer

Attachments

SOCMA MEMBERSHIP

ACETO INDUSTRIAL CHEMICAL CORP.
ALLIED CHEMICAL CORP.
AMERICAN COLOR & CHEMICAL CORP.
AMERICAN CYANAMID CO.
AMERICAN HOECHST CORP.
ARAPAHOE CHEMICALS, INC., A SYNTEX CO.
BASF WYANDOTTE CORP.
BERNCOLORS-POUGHKEEPSIE, INC.
BIDDLE SAWYER CORP.
BOFORS LAKEWAY, INC.
BORDEN CHEMICAL CO.
BUFFALO COLOR CORP.
CAREY INDUSTRIES, INC.
CARROLL PRODUCTS, INC.
CELANESE CORP.
CHATTEM, INC.
CHEMISPHERE CORP.
CHEMTAN CO., INC.
CIBA-GEIGY CORP.
CP CHEMICALS, INC.
CROMPTON & KNOWLES CORP.
DAY-GLO COLOR CORP.
DEGUSSA CORP.
DOW CHEMICAL U.S.A.
DRAKE CHEMICALS, INC.
DREW CHEMICAL CORP.
DU PONT DE NEMOURS & CO., E.I.
DYE SPECIALTIES, INC.
EAST SHORE CHEMICAL CO., INC.
EM INDUSTRIES, INC.
EMERY INDUSTRIES, INC.
EVANS CHEMETICS
FABRICOLOR, INC.
FAIRMOUNT CHEMICAL CO., INC.
FIRST CHEMICAL CORP.
FIRST STATE CHEMICAL CO.
FMC CORP.
GAF CORP.
GANE'S CHEMICAL WORKS, INC.
HEXCEL-SPECIALTY CHEMICALS
HILTON-DAVIS CHEMICAL CO., THE DIV. OF STERLING DRUG, INC.
HOOKER CHEMICALS & PLASTICS CORP.
HUMPHREY CHEMICAL, CO., THE
ICI AMERICAS, INC.
INMONT CORP.
INTERNATIONAL MINERALS & CHEMICAL CORP.
KOHNSTAMM, H., & CO., INC.
KOPPERS CO., INC.
LOCTITE CORP.
LONZA, INC.
M&T CHEMICALS, INC.
MALLINCKRODT, INC.
MARTIN MARIETTA CHEMICALS, SODYECO DIV.
MILLIKEN CHEMICAL, DIV. OF MILLIKEN & CO.
MINEREC CORP.
MOBAY CHEMICAL CORP.
MONSANTO CO.
MOONEY CHEMICALS, INC.

MORTON CHEMICAL CO.
MUSKEGON CHEMICAL CO.
NICKSTADT-MOELLER, INC.
OLIN CORP.
OXIRANE INTERNATIONAL
PASSAIC COLOR & CHEMICAL CORP.
PENNWALT CORP.
PFISTER CHEMICAL, INC.
PHILLIPS CHEMICAL CO. A DIV. OF PHILLIPS PETROLEUM CO.
POLAROID CORP.
POLYMER APPLICATIONS, INC.
PPG INDUSTRIES
PROCTOR CHEMICAL CO., INC.
REILLY TAR & CHEMICAL CORP.
RSA CORP.
RHONE-POULENC, INC.
SALSBURY LABORATORIES
SANDOZ COLORS & CHEMICALS
SAYTECH, INC.
SCHOLLER BROTHERS, INC.
SHERWIN-WILLIAMS CHEMICALS
SOLUOL CHEMICAL CO., INC.
SOUTHLAND FINE CHEMICALS
STANDARD CHLORINE CHEMICAL CO., INC.
STAUFFER CHEMICAL CO.
SUN CHEMICAL CORP.
SYNALLOY CORP. BLACKMAN UHLER CHEMICAL DIV.
THIOKOL/SPECIALTY CHEMICALS DIV.
TOMS RIVER CHEMICAL CORP.
UNION CARBIDE CORP.
UPJOHN CO., INC.
VIRGINIA CHEMICALS, INC.
WHITE CHEMICAL CORP.
WITCO CHEMICAL CORP.

ASSOCIATE MEMBERS

ATLANTA CHEMICAL CO., INC.
BRETON ASSOCIATES, INC.
DAINICHISEIKA COLOR & CHEMICALS, INC.
DELPHI MARKETING SERVICES, INC.
NEAL M. DRAPER & ASSOCIATES
ENVIRONMENTAL RESEARCH & TECHNOLOGY, INC.
FANWOOD CHEMICAL, INC.
R.W. GREEFF & CO., INC.
INTERNATIONAL DYESTUFFS CORP.
KENNEDY & KLIM, INC.
CHARLES H. KLINE & CO., INC.
KOCH CHEMICAL CO.
LUMMUS CO. THE
MERICHEM CO.
HOWARD L. MINCKLER & ASSOCIATES
MONKMAN-RUMSEY
MONTEDISON USA. INC.
SUBURBAN CHEMICAL CO.
WILSON DYE & CHEMICAL DISTRIBUTORS, INC.

4/23/80ct
MJW

EXHIBIT "A"

COSTS TO SYNTHETIC ORGANIC CHEMICAL INDUSTRY FOR POTW TREATMENT OF PROCESS WASTE EFFLUENT

Case 1
Basic Pretreatment*/Low Volume POTW

1.0 10^6 Gal./Day Effluent	0.05	0.1	0.5	1.0
2.0 10^6 Lb./Yr. Production	-	0.2	1.0	2.0
3.0 Pretreatment Capital Cost(10^6)	-	0.4	1.0	1.7
4.0 Pretreatment Cost/Yr.(10^6)	(48%) 0.038	(41%) 0.06	(27%) 0.17	(22%) 0.26
5.0 POTW User Charge(10^6)	(48%) 0.038	(55%) 0.08	(67%) 0.42	(72%) 0.84
6.0 ICR Charge(10^6)	(4%) 0.003	(4%) 0.006	(6%) 0.033	(6%) 0.065
7.0 Total Yearly Treatment Cost(10^6)	0.079	0.146	0.623	1.17
8.0 Treatment Cost Ratio(7.0/1.0)	1.58	1.46	1.25	1.17

*Pretreatment consists of: Oil/solids separation; Equalization; Neutralization; Primary Sludge Disposal by waste contractor.

4/23/80ct
MJW

EXHIBIT "B"

COSTS TO SYNTHETIC ORGANIC CHEMICAL INDUSTRY FOR POTW TREATMENT OF PROCESS WASTE EFFLUENT

Case 2
Advanced Pretreatment*/Low Volume POTW

1.0 10^6 Gal./Day Effluent	0.05	0.1	0.5	1.0
2.0 10^6 Lb./Yr. Production	-	0.2	1.0	2,0
3.0 Pretreatment Capital Cost($\$10^6$)	-	0.7	1.9	2.7
4.0 Pretreatment Cost($\$10^6$)	(58%) 0.056	(60%) 0.130	(37%) 0.26	(31%) 0.4
5.0 POTW User Charge($\$10^6$)	(39%) 0.038	(37%) 0.08	(59%) 0.42	(64%) 0.84
6.0 ICR Charge($\$10^6$)	(3%) 0.003	(3%) 0.006	(4%) 0.033	(5%) 0.065
7.0 Total Treatment Cost($\$10^6$)	0.097	0.216	0.713	1.31
8.0 Treatment Cost Ratio(7.0/1.0)	1.94	2.16	1.43	1.31

*Pretreatment consists of: Oil/solids separation; Equalization; Neutralization; Lime precipitation; Sludge incineration; Advanced physical/chemical treatment.

EXHIBIT "C"

COSTS TO SYNTHETIC ORGANIC CHEMICAL INDUSTRY FOR POTW TREATMENT OF PROCESS WASTE EFFLUENT

Case 3
Basic Pretreatment*/High Volume POTW

1.0 10^6 Gal./Day Effluent	0.05	0.1	0.5	1.0	5	10
2.0 10^6 Lb./Yr. Production	-	0.2	1.0	2.0	10	20
3.0 Pretreatment Capital Cost(10^6)	-	0.4	1.0	1.7	4.1	6.5
4.0 Pretreatment Cost/Yr.(10^6)	(78%) 0.038	(73%) 0.06	(61%) 0.17	(55%) 0.26	(39%) 0.71	(34%) 1.1
5.0 POTW User Charge(10^6)	(20%) 0.01	(23%) 0.019	(34%) 0.094	(40%) 0.19	(53%) 0.97	(58%) 1.9
6.0 ICR Charge(10^6)	(2%) 0.001	(4%) 0.003	(5%) 0.013	(5%) 0.027	(8%) 0.138	(8%) 0.27
7.0 Total Yearly Treatment Cost(10^6)	0.49	0.082	0.277	0.477	1.82	3.27
8.0 Treatment Cost Ratio(7.0/1.0)	0.98	0.82	0.55	0.48	0.36	0.33

*Pretreatment consists of: Oil/solids separation; Equalization; Neutralization; Primary sludge disposal by waste contractor.

4/23/80ct
MJW

EXHIBIT "D"

COSTS TO SYNTHETIC ORGANIC CHEMICAL INDUSTRY FOR POTW TREATMENT OF PROCESS WASTE EFFLUENT

Case 4
Advanced Pretreatment/High Volume PCTW

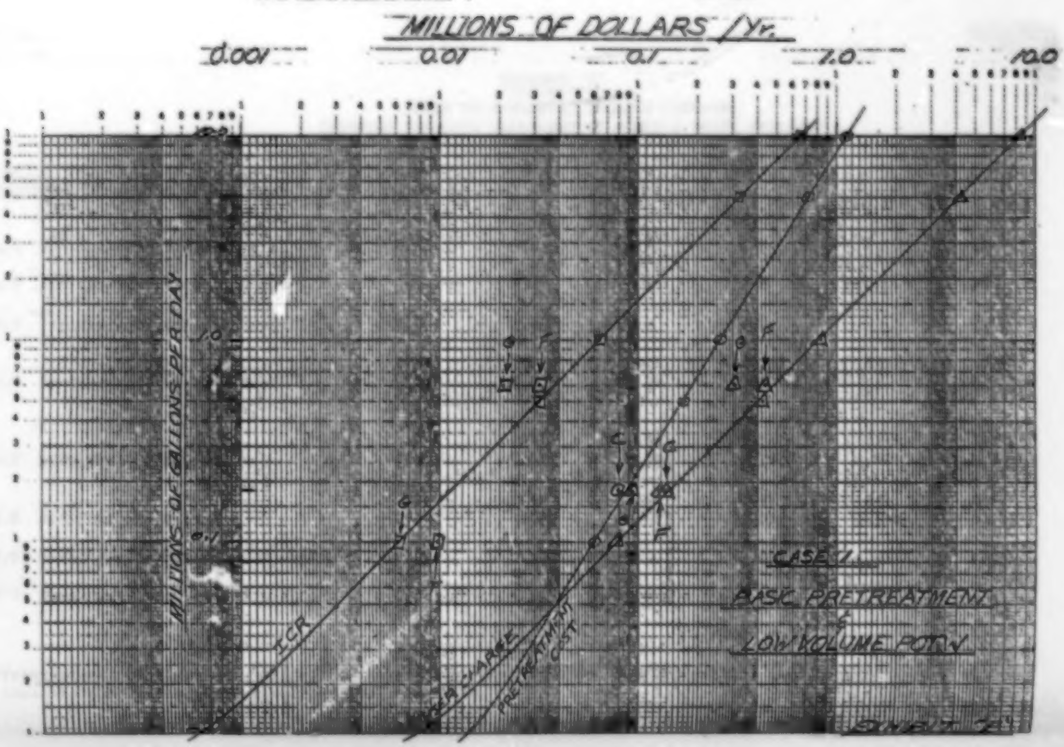
1.0	10^6 Gal./Day Effluent	0.05	0.1	0.5	1.0	5	10
2.0	10^6 Lb./Yr. Production	-	0.2	1.0	2.0	10	20
3.0	Pretreatment Capital Cost($$10^6$)		0.7	1.9	2.7	7.8	11.8
4.0	Pretreatment Cost/Yr.*($$10^6$)	(84%) 0.056	(86%) 0.13	(71%) 0.26	(65%) 0.4	(52%) 1.2	(47%) 1.9
5.0	POTW User Charge($$10^6$)	(15%) 0.010	(13%) 0.019	(26%) 0.094	(31%) 0.19	(42%) 0.97	(47%) 1.9
6.0	ICR Charge($$10^6$)	(1%) 0.001	(1%) 0.003	(3%) 0.013	(4%) 0.027	(6%) 0.138	(6%) 0.27
7.0	Total Yearly Treatment Cost($$10^6$)	0.067	0.152	0.367	0.617	2.31	4.07
8.0	Treatment Cost Ratio(7.0/1.0)	1.34	1.52	0.73	0.62	0.46	0.41

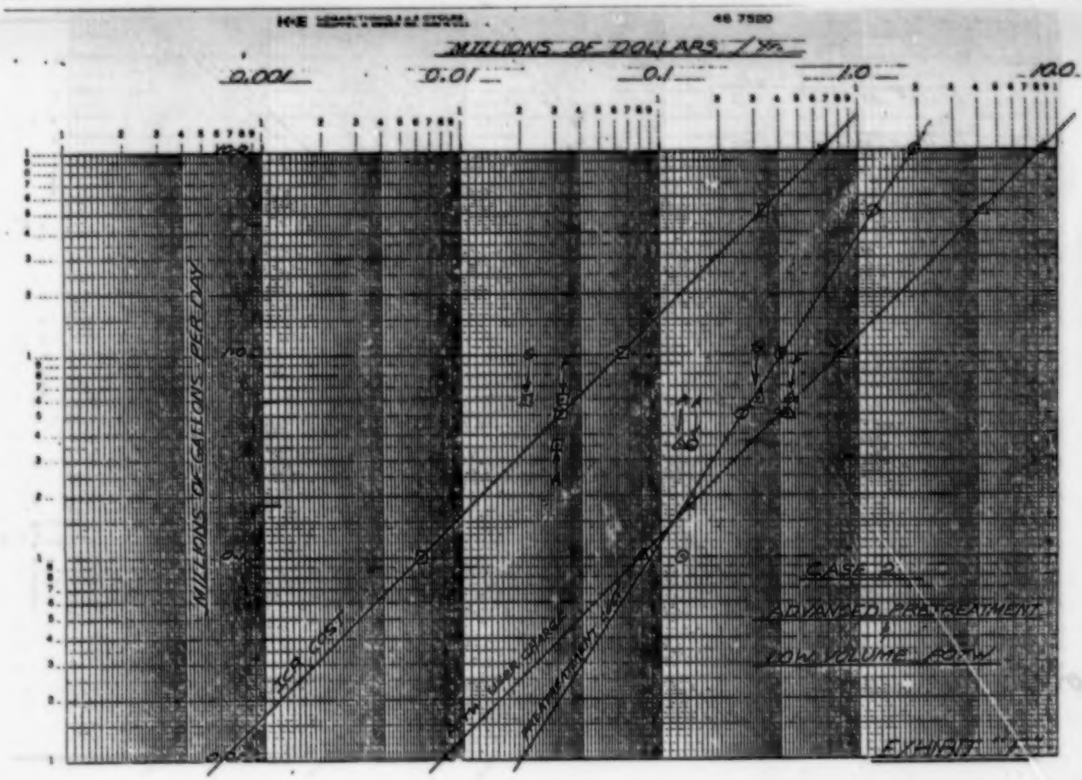
*Pretreatment consists of: Oil/Solids separation; Equalization; Neutralization; Lime precipitation; Sludge incineration; Advanced physical/chemical treatment.

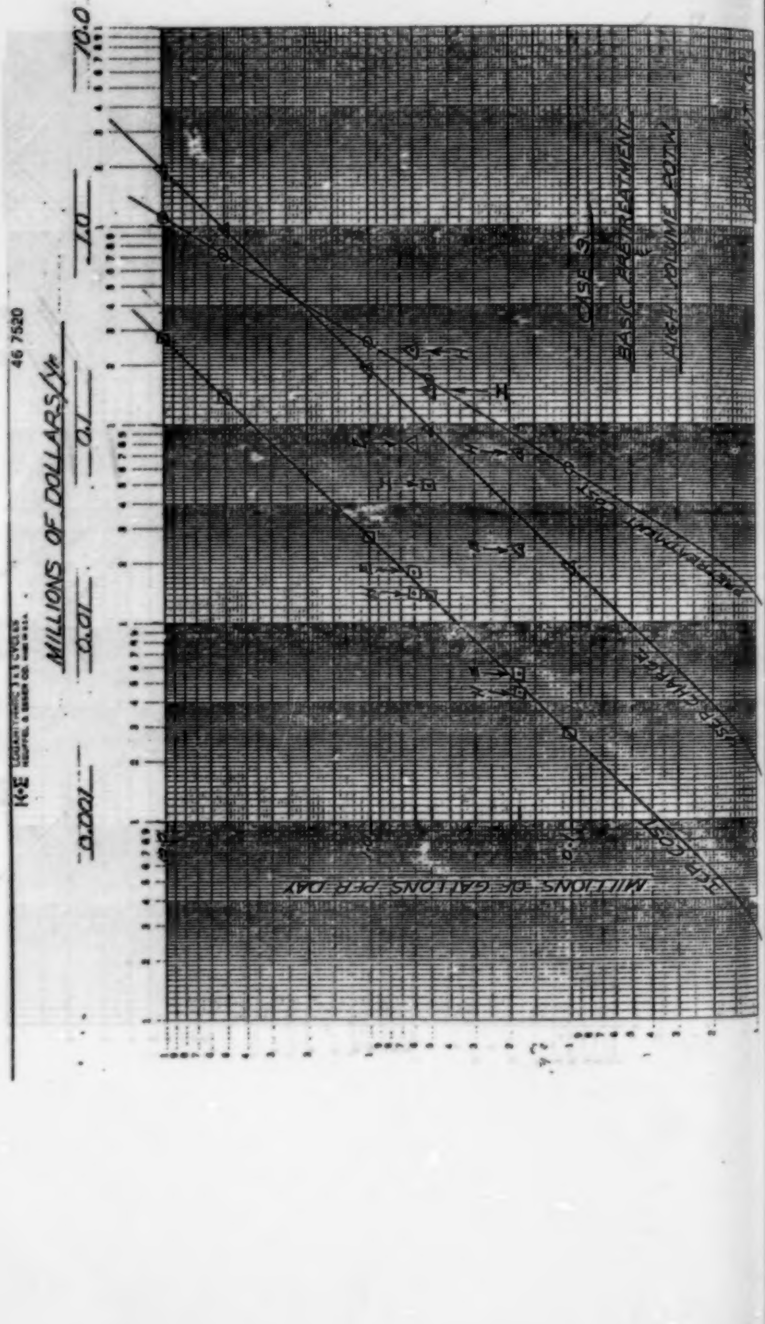
4.30.80
MJW

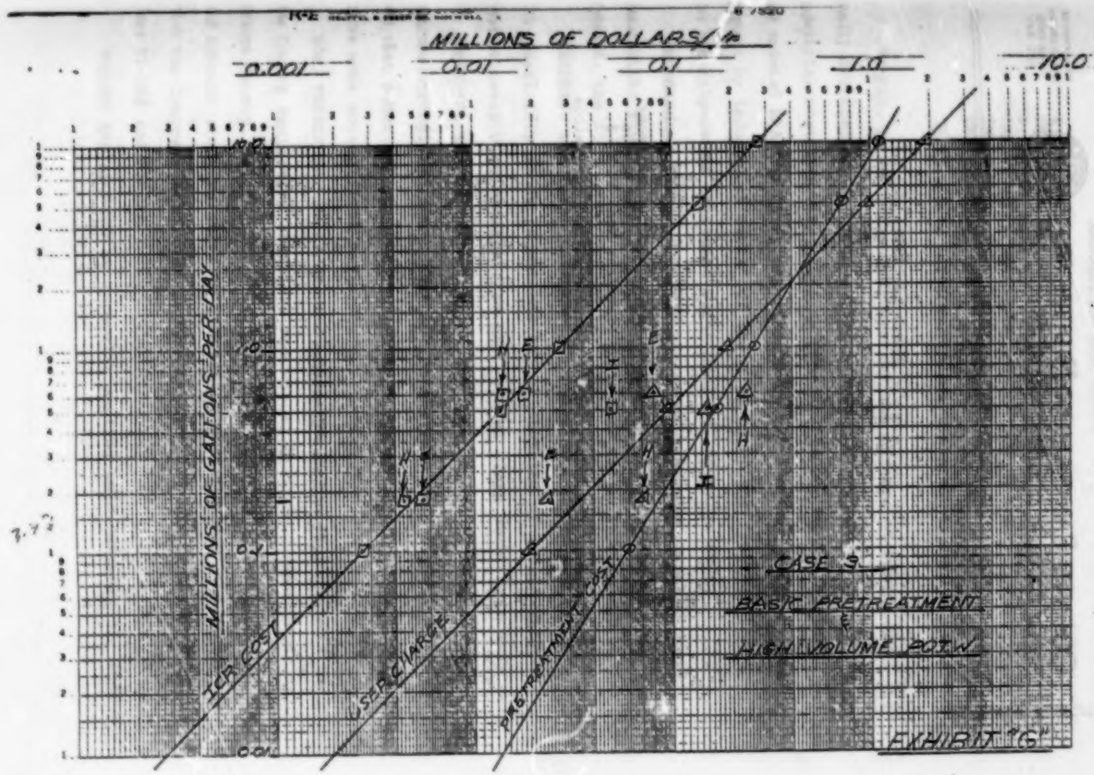
EXHIBIT "I"
LIST OF DATA SOURCES FOR EXHIBITS "E" THROUGH "H"

Data Source	Description
A	SOCMA Member Plant #1
B	SOCMA Member Plant #2
C	SOCMA Member Plant #3
D	(Open Data Point)
E	POTW #1 - Passaic Valley Sewer Commissioners
F	POTW #2 - Newton, North Carolina
G	POTW #3 - Oconee County, North Carolina
H	POTW #4 - Charlotte, North Carolina


K+E LOGARITHMIC 3 x 3 CYCLES
46 7520
MILLIONS OF DOLLARS /Yr.
0.001
0.01
0.1
1.0
10.0
MILLIONS OF GALLONS PER DAY
0.1
1.0
10.0
ICR
CHARGE
PRETREATMENT COST
A
B
C
D
E
F
G
CASE I
BASIC PRETREATMENT
&
LOW VOLUME POTW
SHEET


K+E
46 7520
MILLIONS OF DOLLARS / YR.
0.001
0.01
0.1
1.0
10.0
MILLIONS OF GALLONS PER DAY
10.0
1.0
0.1
0.01
ICR COST
USER CHARGE
PRETREATMENT COST
CASE 2
ADVANCED PRETREATMENT
&
LOW VOLUME POTW
EXHIBIT "F"


K+E
46 7520
MILLIONS OF DOLLARS/Yr
0.001
0.01
0.1
1.0
10.0
MILLIONS OF GALLONS PER DAY
CASE 3
BASIC PRETREATMENT
HIGH VOLUME POTW
PRETREATMENT COST
USER CHARGE
SCP COST


MILLIONS OF DOLLARS/Yr
0.001
0.01
0.1
1.0
10.0
MILLIONS OF GALLONS PER DAY
0.01
0.1
1.0
10.0
ICR COST
USER CHARGE
PRETREATMENT COST
H
E
I
CASE 3
BASIC PRETREATMENT
&
HIGH VOLUME POTW
EXHIBIT "G"
3.42

COUNTY SANITATION DISTRICTS
OF ORANGE COUNTY, CALIFORNIA

TELEPHONES:
AREA CODE 714
540-2910
962-2411

P. O. BOX 8127, FOUNTAIN VALLEY, CALIFORNIA 92708
10844 ELLIS AVENUE (EUCLID OFF-RAMP, SAN DIEGO FREEWAY)

March 12, 1980

Harold T. (Bizz) Johnson, Chairman
Committee on Public Works and Transportation
U. S. House of Representatives
Room 2165 RHOB
Washington, D.C. 20515

Re: Hearings Wednesday, March 12, 1980 on H.R. 6667

We would appreciate the inclusion in the hearing testimony the attached Resolution No. 80-29, adopted by the Boards of Directors of County Sanitation Districts Nos. 1, 2, 3, 5, 6, 7 and 11 of Orange County, California, declaring opposition to the Industrial Cost Recovery (ICR) provisions of the Federal Clean Water Act.

Thank you.

Best regards,

Fred A. Harper

Fred A. Harper
General Manager

Enc.

cc: AMSA
WPCF Govt. Affairs Committee

RESOLUTION NO. 80-29

A RESOLUTION OF THE BOARDS OF DIRECTORS OF COUNTY SANITATION DISTRICTS NOS. 1, 2, 3, 5, 6, 7 AND 11 OF ORANGE COUNTY, CALIFORNIA, DECLARING OPPOSITION TO THE INDUSTRIAL COST RECOVERY PROVISIONS OF THE FEDERAL CLEAN WATER ACT

* * * * * * * * * * * * * * * * *

WHEREAS, in 1977 the Congress, by the passage of Public Law 95-217 declared an 18-month moratorium on the imposition of industrial cost recovery (ICR) as provided in Public Law 92-500 and ordered EPA "to study the efficiency of, and the need for, the payment by industrial users" of their share of the Federal grants for publicly-owned treatment works used by industry; and,

WHEREAS, in January, 1979, the industrial cost recovery (ICR) feasibility study was presented to the Congress by Coopers and Lybrand, the firm commissioned to conduct said study; and,

WHEREAS, the first recommendation in the Coopers and Lybrand ICR feasibility study recommends the elimination of the industrial cost recovery requirements from the Federal Clean Water Act; and,

WHEREAS, the full findings of the Coopers and Lybrand investigations strongly indicate that ICR cannot achieve its goals at all and that other EPA program requirements currently in force accomplish those ends more effectively.

NOW, THEREFORE, BE IT RESOLVED that the Boards of Directors of the County Sanitation Districts Nos. 1, 2, 3, 5, 6, 7 and 11 of Orange County, California, do hereby support the finding in the Coopers and Lybrand study relative to industrial cost recovery and recommend that the Congress eliminate in its entirety ICR provisions of Public Laws 92-500 and 95-217.

PASSED AND ADOPTED at a regular meeting held February 13, 1980.

STATE OF CALIFORNIA)
) SS
COUNTY OF ORANGE)

I, J. WAYNE SYLVESTER, Secretary of the Boards of Directors of County Sanitation Districts Nos. 1, 2, 3, 5, 6, 7 and 11 of Orange County, California, do hereby certify that the above and foregoing Resolution No. 80-29 was regularly passed and adopted at a regular meeting of said Boards on the 13th day of February, 1980, by the following vote, to wit:

AYES:	Marvin P. Adler	Councilman	Fountain Valley
	Philip L. Anthony	Board Member	County Board of Supervisors
	Ruth Bailey	Councilwoman	Huntington Beach
	Norman E. Culver	Board Member	Garden Grove Sanitary District
	Bruce Finlayson	Board Member	Midway City Sanitary District
	Donald L. Fox	Councilman	Brea
	Henry R. Frese	Mayor	La Palma
	Beth Graham	Mayor	La Habra
	Donald A. Holt	Councilman	Placentia
	Bernard C. Houston	Mayor	Villa Park
	Elvin Hutchison	Board Member	Costa Mesa Sanitary District
	Melvin J. LeBaron	Councilman	Brea
	Don MacAllister	Mayor	Huntington Beach
	Edison W. Miller	Board Member	County Board of Supervisors
	Ron Pattinson	Councilman	Huntington Beach
	Bob Perry	Board Member	Garden Grove Sanitary District
	Lester J. Reese	Councilman	Buena Park
	Thomas F. Riley	Board Member	County Board of Supervisors
	Earl C. Roget	Councilman	La Habra
	Howard Rowan	Mayor	Cypress
	Paul Ryckoff	Mayor	Newport Beach
	Harold Kent Seitz	Mayor	Seal Beach
	James B. Sharp	Councilman	Tustin
	Don E. Smith	Councilman	Orange
	Roger R. Stanton	Councilman	Fountain Valley
	Donald Strauss	Councilman	Newport Beach
	Charles E. Sylvia	Councilman	Los Alamitos
	Bill Vardoulis	Councilman	Irvine
	James A. Wahner	Board Member	Costa Mesa Sanitary District
	James B. Ward	Mayor	Santa Ana
	Henry W. Wedaa	Mayor	Yorba Linda
	Martha V. Weishaupt	Mayor	Stanton
	Ralph Welsh	Councilman	Tustin
	Harriett Wieder	Board Member	County Board of Supervisors
	Ray Williams	Councilman	Newport Beach
	Duane Winters	Councilman	Fullerton
	Harry E. Yamamoto	Councilman	Santa Ana
NOES:	None		
ABSENT:	Donald Roth	Councilman	Anaheim

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of February, 1980.

J. Wayne Sylvester

J. Wayne Sylvester, Secretary
Boards of Directors, County
Sanitation Districts Nos. 1, 2, 3, 5, 6, 7
and 11 of Orange County, California

S-101

STATEMENT OF

K.R. HARRINGTON

PRESIDENT, ASSOCIATION OF METROPOLITAN SEWERAGE AGENCIES

My name is K. Ray Harrington. I am the Director of the Department of Water and Sewerage Services of Nashville Davidson County, Tennessee, and president of AMSA.

AMSA, the Association of Metropolitan Sewerage Agencies, is comprised of 75 wastewater treatment agencies of the Nation's major metropolitan areas. Our members provide services to over 60 million people. We are the ones who actually clean up the water, every day, and it is that experience which lies behind our testimony today.

AMSA favors the repeal of ICR. This position was adopted by our members, and a copy of it is attached. There are several very practical and important reasons why repeal is needed.

Many of our members believe the administrative costs associated with the collection of the ICR fees will be a substantial portion of the fees they are able to collect. The City of Dallas, for example, has estimated that it will have to spend two dollars for every dollar it collects from ICR.

Other figures, while not as dramatic, indicate that the administrative burdens associated with ICR make it an inefficient way to produce revenue.

AMSA has advised the Congress before that it believes that ICR costs, when added to existing pretreatment costs and user charges already being borne by industry, may force large plants from participation in publicly owned treatment systems. These industries may find that with ICR, it is more cost-effective to provide for their own on-site treatment and disposal than to continue to pay the various costs associated with remaining in a public system.

The consequences of such departures is potentially very serious. For one, the operation and maintenance costs for a system whose capacity was designed for the now departed industrial users will now have to be borne by the remaining users. This means that residential customers will have to pay costs that originally were to be covered by industry. This is precisely the outcome that ICR was supposed to prevent, yet it has already come to pass in the Sacramento area, when a major industrial contributor is pulling out of the system. Here, ICR was not the only factor, but it was a significant factor.

Further, once a plant leaves the system, policing its effluent discharge to ensure that it is in compliance with water quality standards becomes considerably more difficult. When unlawful discharges do occur, they will no longer be moderated by the publicly owned treatment facility. Instead the full impact will be felt by the receiving waters.

Finally, the imposition of ICR will make it harder for communities to attract new industry into their systems. The implications of this are two-fold. First the system may continue to be burdened with excess capacity if it has lost its original industrial users. Secondly, ICR would be a liability for communities seeking to attract new industries.

AMSA has found that ICR diverts time and resources away from the agency's primary task of cleaning up the water. Instead, agencies are having to commit themselves to either developing or administering a program which does not help meet environmental quality goals stipulated in the Clean Water Act.

Finally, AMSA agrees with the conclusions reached in the Coopers and Lybrand study, which EPA commissioned and supervised, to evaluate the effectiveness of ICR. The study found that ICR does not meet the four major objectives that it was originally created to achieve. The first is parity in costs to industry of using publicly owned facilities rather than on-site facilities. Changes in tax laws since the original passage of ICR have already achieved comparability of costs for many industries.

Another objective was to encourage more realistic estimates of sewage flows. However, it does not appear that ICR costs are sufficient to have much impact on estimates of plant capacity needs. A third goal which is water conservation was also not much affected by ICR. Rather, reductions in industrial water use, which amounted to 29% for the industries surveyed, were largely attributable to the much higher water rates and sewer user fees.

Finally, the fourth objective of enabling agencies to achieve financial self-sufficiency through ICR was also found to be largely overrated, particularly when the impact of inflation is considered. AMSA is currently surveying its membership to obtain additional data on the costs of administering ICR and the revenues that will potentially be collected. The results of this survey should provide additional useful figures on this issue. We, of course will be happy to share them with the subcommittee.

I would like now to turn briefly to the changes in ICR proposed by EPA in testimony before your committee [redacted]. While we have circulated these proposals to our membership for their analysis and comment, they have not yet had a chance to fully respond. Nonetheless, from the initial responses it is clear that our members cannot support any changes which fail to significantly reduce the adminsitrative burden they must carry with the present ICR program. In particular, we would oppose any proposals which would merely substitute one administratively complicated program for another.

The proposal to increase the minimum flow requirement will have varying impact, depending on the circumstances of a particular area. Lifting the floor from 25,000 to 50,000 gallons per day will, in the case of some AMSA members, ease the adminsitrative burden without seriously affecting revenues. In other cities, it would require lifting the floor to 75,000 gallons per day to eliminate those from whom it would be uneconomical to collect.

Exclusion of these additional industries or even total abandonment of ICR will not, as EPA claims, result in a failure to effectively monitor those industries contributing flow to the system. Adequate monitoring is assured by existing pretreatment regulations.

AMSA finds merit conceptually with EPA's proposal to exempt from ICR requirements those agencies which otherwise are making adequate provisions for their future replacement needs. Our membership is understandably concerned about their future replacement needs, and have already taken steps to assure that these needs will be met. AMSA supports the necessity of ensuring that an agency's funding is sufficient to provide the O&M and provide for necessary replacement. We have supported provisions in both the law and regulations that call for this funding. The user charge provisions require that the funds be sufficient for O&M and replacement and all AMSA members have either approved user charge programs or programs pending for approval by EPA.

However, the EPA exemption proposal is not spelled out enough to determine whether present agency programs would in fact be accepted as substitutes for ICR. It may be that what EPA would ultimately accept as an alternative to ICR would be as administratively burdensome and complex as ICR itself. Nevertheless we intend to give careful study to this option, and will bring it before our members at next month's general members meeting.

EPA's third proposal would exempt industries from ICR if they are not using sewer capacity paid for in part with federal funds. This would not help in those situations where industry is already using federally supported facilities, but would only introduce further inequities. Nor do EPA's alternative funding proposals appear to be a viable alternative to continued federal support of sewage treatment facility construction. This alternative to ICR is in essence an alternative only for future construction projects.

AMSA is committed to the goals and objectives of the Clean Water Act. Its members are striving to meet the enforceable provisions of that Act. We realize the scope of national clean water problems, because we are responsible for dealing with them each day. AMSA is in full agreement with the demand of the Congress for adequately maintained and financed facilities, and for a process to fund their timely replacement. Industrial cost recovery, however, does not appear to be a cost-effective means of achieving that objective.

I thank the committee for this opportunity to present AMSA's position. I will be glad to respond to any questions you may have.

17. Elimination of ICR Requirements

Resolution:

"The Association of Metropolitan Sewerage Agencies supports the elimination of ICR provisions from the Clean Water Act of 1977.

"Pending repeal of those provisions, AMSA recommends that the Congressional moratorium on ICR collection to be extended until such time as Congress has considered the recommendations of the ICR feasibility study presented to it by EPA in January 1979.

"AMSA also urges Congress to expand the scope of the moratorium to cover all ICR-related activities conducted at the local level until a final decision has been made on the complete ICR program."

Rationale:

1. AMSA has consistently advocated the elimination of ICR provisions from the Clean Water Act because carrying out an ICR program contributes nothing to water pollution control and simply diverts time and effort away from that end.

2. In advocating the elimination of industrial cost recovery requirements from the Clean Water Act, AMSA is in full support of the first recommendation in the Coopers & Lybrand feasibility study presented to EPA in December 1978.

3. Congress decided to re-examine the need for ICR programs when it modified PL 52-500 to include an ICR feasibility study and a moratorium on the collection of ICR revenues by those treatment authorities that had already put a recovery program into operation. The study has been completed and submitted to Congress for consideration. Its primary conclusion is that ICR has met the objectives for which it was created.

4. In fact, the full findings of the investigation strongly indicate that ICR cannot achieve its goals at all, and that other EPA program requirements currently in force accomplish those ends more effectively.

5. Given the conclusions and findings of the study, Congress will need more than the original six months it had allowed for considering changes in the law. Accordingly, the terms of the original moratorium

on ICR collection should now be changed to permit treatment agencies to stop spending thousands of follars on the development of a program whose value is clearly questionalbe.

Background:

The industrial cost recovery provisions included in PL 92-500 were designed to accomplish three objectives: (1) to ensure that industrial users of publicly-owned treatment work paid an equitable amount for sewage service, when compared with competing industries that discharged directly to receiving waters; (2) to prevent treatment authorities from using federal money to build plants that include excess capacity for future growth; and (3) to encourage water conservation among industrial users of public systems.

While the general concept of ICR is appealing in a simple way, and might be justified in certain limited situations where a small treatment agency receives an unusually high volume of industrial flow, it has proven impractical to execute and operate in almost every case to date. Congress realized that the concept had its deficiencies, reviewed the ICR law, and directed EPA to conduct a study of the concept's feasibility. That study was completed in December 1978 and transmitted to Congress in January 1979.

EPA concluded on the basis of its investigation that ICR programs did not accomplish their goals. Additionally, the findings of the study show that ICR will not generate the large amounts of capital its proponents argued would be needed when replacing the public facilities serving such industries customers became necessary. The Agency's study shows that other programs administered by EPA are more effective in realizing the goals of parity, adequate capacity, and water conservation than ICR programs .... and at a lower cost.

Congress will now consider whether or nor to amend the Clean Water Act, given the results of the study. Until it has decided what to do with the ICR program, local treatment agencies can save federal tax money for badly needed construction by being allowed to suspend their ICR program develop and concentrating on meeting the water pollution control objectives of the Act.

D. W. McKENZIE, Director
DOUGLAS M. [illegible], Deputy Director
W. C. [illegible], JR., Deputy Director

COUNTY OF SACRAMENTO

DEPARTMENT OF PUBLIC WORKS

COUNTY ADMINISTRATION BUILDING • ROOM [illegible] • 827 SEVENTH STREET
SACRAMENTO, CALIFORNIA 95814

March 5, 1980

The Honorable Ray Roberts, M.C.
Chairman, Water Resources Sub-Committee
House Public Works & Transportation
Room 2165, Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Roberts:

Subject: Hearing on H.R.6667, March 11, 1980

The recent study by Coopers-Lybrand indicated that Industrial Cost Recovery (ICR) provisions requiring industrial pay-back of federal grant funds was not meeting Congress' intended purposes. In interviews with the Coopers-Lybrand firm, the Sacramento Regional County Sanitation District had indicated that continuation of ICR provisions would probably result in departure of major industrial users from the newly constructed Regional sewerage system. This has in fact now occurred. Libby, McNeill & Libby cannery employs 100 people year round, and 900 people on a seasonal basis and has announced its plant closure effective March, 1980. Campbell Soup, while retaining present cannery facilities, is developing a land disposal site for waste disposal at the urban boundary.

Present sewer service charge structures, with ICR excluded, make joint use of a municipal system by industry marginal at best. With ICR added, joint use of a municipal system is clearly not economical. The continuing uncertainty as to ICR pay-back will preclude significant additional industrial use of the municipal system and will impair this community's ability to broaden its industrial base.

The Board of Directors of the Sacramento Regional County Sanitation District includes the Board of Supervisors of the County of Sacramento, and the Mayors of the Cities of Sacramento and of Folsom. The District serves an urban population of 750,000. The Directors earlier passed the attached resolution recommending that Congress eliminate in their entirety the Industrial Cost Recovery provisions of PL 92-500 and PL 95-217.

This District is strongly supportive of the elimination of ICR as proposed in H.R.6667.

Very truly yours,

D. W. McKenzie
D. W. McKenzie
District Engineer

DWM/WSM:cc
Attachment: Resolution No. SR-346
cc: The Honorable Harold T. "Bizz" Johnson
Members of the Board
B. H. Richter, County Executive

RESOLUTION NO. SR-346

RESOLUTION EXPRESSING THE DISTRICT BOARD'S OPPOSITION TO INDUSTRIAL COST RECOVERY

The Congress in Public Law 95-217 ordered EPA "to study the efficiency of, and the need for, the payment by industrial users" of their share of the Federal grants for publicly owned treatment works used by Industry—that is, the Industrial Cost Recovery provisions of the Law, and

WHEREAS, the EPA study has found that the ICR does not substantially satisfy any of the intended purposes of this provision, and

WHEREAS, the EPA study has found "for some medium or large industries... it is least expensive in the long run (for an industry) to self-treat than to pay" a proportionate share of costs in a publicly owned system, and

WHEREAS, the Sacramento Regional County Sanitation District has at least six major industrial plants which have historically utilized the community system, some or all of whom could logically make a decision to withdraw from the regional system if the costs of such system plus Industrial Cost Recovery are not economically competitive, and

WHEREAS, withdrawal of any of the subject industries from the regional system, which entails a $420 million investment, will defeat a major purpose of this effort to eliminate the existing system of twelve dispersed plants by creating new industrial wastewater treatment facilities peripheral to the City, and

WHEREAS, the subject industries have already experienced a major increase in sewer user charges (some in excess of 100%) due to the regionalization project, under fully allocated costs, and the added average 54 percent increase which Industrial Cost Recovery would impose could make the use of individual disposal systems economically attractive, and

WHEREAS, it is desirable to retain all of the industries in the regional system to avoid undesirable changes in the cost distribution to all other users, and,

WHEREAS, the Board of the Sacramento Regional County Sanitation District believes all possible encouragement of municipal wastewater treatment systems should be given to keep alive and vital the industrial employers in developed older City locations;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Sacramento Regional County Sanitation District supports the finding in the EPA study relative to Industrial Cost Recovery and recommends that the Congress eliminate in their entirety the Industrial Cost Recovery provisions of PL 92-500 and PL 95-217.

On a motion by Director Pope, seconded by Director Wade, the foregoing Resolution was passed and adopted by the Board of Directors of the Sacramento Regional County Sanitation District, this 13th day of March, 1979, by the following vote, to wit:

AYES : Directors, Carmody, Collin, Johnson, Pope, Wade, Sheedy

NOES : Directors, None

ABSENT: Directors, Smoley

Joseph E Sheedy

Vice Chairperson of the Board of Directors of the Sacramento Regional County Sanitation District

(SEAL),

ATTEST: Betty D Poohar

Betty D. Poohar, Clerk of the Board of Directors of the Sacramento Regional County Sanitation District

In accordance with Section [illegible] of the Government Code of the State of California, a copy of the document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento.

MAR 13 1979

By Deputy Clerk, Board of Supervisors

FILED

MAR 13 1979

BOARD OF DIRECTORS

By Betty D Poohar

Clerk of the Board

OFFICE OF THE MAYOR
CITY OF HOUSTON
TEXAS

JIM McCONN
MAYOR

June 14, 1979

The Honorable Ray Roberts
Chairman, Subcommittee on Water Resources
House Public Works Committee
House of Representatives
Washington, D.C. 20515

Dear Mr. Roberts:

The City of Houston supports House Bill 4023 to amend the Clean Water Act of 1977 by extending the moratorium on Industrial Cost Recovery. The City strongly feels that this extension is greatly needed by the nation's municipalities and we will support you in any way necessary to secure its expeditious passage.

It is the City's primary position that the requirement for Industrial Cost Recovery should be repealed from the Clean Water Act of 1977. As indicated by the Environmental Protection Agency's report to Congress, Industrial Cost Recovery does not accomplish the intent of Congress when it enacted PL 92-500. The City, as required, has proceeded to develop its Industrial Cost Recovery program at a cost so far of $120,000.00 The development of this program has convinced the City that the administrative cost will offset or exceed any revenues generated, at least for the initial years. It is calculated that during the initial years the City will collect approximately $36,000.00 per year while administrative costs will equal or exceed this amount. Further, in the long run, we do not expect revenues of sufficient magnitude to be of great benefit to the City or to accomplish the purpose of Congress. The City has established a user charge which includes charges to recover bonded indebtedness for capital improvements. This, coupled with ad valorem taxes, we feel collects from industries their appropriate share of costs of the system and no further charges to industries connected to the municipal wastewater system are necessary or appropriate.

Therefore, the City would support the repeal of Industrial Cost Recovery in the future and presently supports passage of an extension of the moratorium.

Sincerely,

Jim McConn (by Sylvia deLeon)
Jim McConn
Mayor

NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS
"Putting It All Together For The Engineer"
NSPE

Address Reply To:
LEGISLATIVE AND GOVERNMENT AFFA
OFFICE OF THE CHAIRMAN

March 24, 1980

Honorable Ray Roberts, Chairman
Subcommittee on Water Resources
2165 Rayburn House Office Building
Washington, D. C. 20515

Dear Chairman Roberts:

The National Society of Professional Engineers, a nationwide organization representing nearly 80,000 individual members working in every aspect of the engineering profession, appreciates this opportunity to comment on H.R.6667, which amends the Federal Water Pollution Control Act regarding extensions of authorizations and industrial cost recovery.

There is little need to recount the history of the Industrial Cost Recovery (ICR) concept. It was, and is, a concept based on a philosophy of recovering the Federal share of grant-funded treatment works used to treat wastes from industries. Unfortunately, it has not functioned well in the practical world. The economic impact on some industries and many municipalities may result in administrative costs which equal or exceed ICR generated income. The National Society of Professional Engineers has encouraged deletion of the ICR in its present form from the Clean Water Act. As is implied in the foregoing statement, NSPE is of the belief that there should be a mechanism by which large industrial dischargers, both in terms of volume and discharge content, contribute an equitable share of the capital costs associated with the treatment facility. It is a matter of equity. Such a program must be tied directly to the cost of construction and ICR administration, the relative impact of the industrial discharger on overall plant costs as to both operation and replacement, and the impact of the imposition of an ICR program on the economy of the community involved.

On that basis, we recommend removal of the ICR as it is presently constituted. We would further recommend, however, that an ICR program which takes into account the magnitude of industrial discharges (using, perhaps, the 10 percent major contributing industry definition) in establishing a trigger mechanism for the institution of ICR be given strong consideration. It is equally unfair to the Federal government to assume the cost of construction and treatment associated with a major discharging industry as it is to place an unusual burden on the industry itself. Our view is that an equitable program taking into account plant costs measured against the volume and content of the individual industry discharge should be instituted.

We respectfully request that this letter be made a [redacted] If NSPE can be of any service in this matter, please feel free to contact us.

Very truly yours

Herb Koogle

Herbert G. Koogle, P.E.
Chairman

NATIONAL
MEAT
ASSOCIATION

734 15TH STREET, N.W.
WASHINGTON, D.C. 20005
202-347-1000

April 17, 1980

The Honorable Ray Roberts, Chairman
Subcommittee on Water Resources
Public Works and Transportation Committee
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

While we were unable to appear at the recent hearings regarding the repeal of the Industrial Cost Recovery provisions of the Clean Water Act, we would greatly appreciate it if the enclosed statement could be made part of the hearing record.

Best Wishes.

Sincerely,

Paul Korody.

Paul Korody
Director of Public Affairs

PK/nlm

Enclosure

NATIONAL
MEAT
ASSOCIATION

734 15TH STREET, N.W.
WASHINGTON, D.C. 20005
202-347-1000

STATEMENT

OF

JOHN G. MOHAY, PRESIDENT

NATIONAL MEAT ASSOCIATION

REGARDING THE NEED FOR THE REPEAL OF

THE INDUSTRIAL COST RECOVERY PROVISIONS OF THE CLEAN WATER ACT

BEFORE

THE SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

U. S. SENATE

AND

THE SUBCOMMITTEE ON WATER RESOURCES

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

U. S. HOUSE OF REPRESENTATIVES

APRIL 10, 1980

Statement of the National Meat Association

Mr. Chairman, the National Meat Association represents approximately 300 of the nation's meat slaughtering, packing and further processing companies. Our members, located in more than 40 states, handle some 70 to 80 percent of America's beef supply and a substantial portion of the pork and processed meats tonnage.

The National Meat Association strongly urges the Congress to quickly pass legislation which would repeal the Industrial Cost Recovery provisions of the Clean Water Act.

As stated by the Environmental Protection Agency's January, 1979, report to Congress, the Industrial Cost Recovery (ICR) provisions have not achieved the purposes originally intended by the Congress.

We believe that ICR places an unfair burden and penalty on our member companies. As indicated below, industrial users of POTWs are placed at a distinct disadvantage. Continued uncertainty about the future of ICR such as by a congressionally extended moratorium could reduce even more industrial participation in POTWs. Recent recommendations from EPA to modify the existing ICR provisions would not solve any of the problems caused by the current ICR provisions.

The overwhelming majority of new meat slaughter facilities built in the last 15 years have been located in rural areas. We firmly believe that among the important factors influencing the decision to locate rurally were:

(1) the ability to self treat wastewaters satisfactorily at a lesser cost than the municipality.

(2) the ability to work directly with the regulatory agency without the politics of city government, and

(3) the opportunity to be more flexible with the treatment mode as regulations change and become more stringent due to available room for expansion.

Also, smaller and medium sized rural cities and towns do not have the excess capacity nor the desire to handle a large "wet" industry like a packing house.

Unfortunately, in too many instances, older slaughter operations exist in a city and become "captive" participants in the Construction Grants Program when the sewage plant needs renovation or upgrading. Because of the inherent confining nature of the city, self treatment is not a viable alternative. Yet neither is moving a $15 million facility to a rural location. Consequently the older and - because of their age - somewhat less efficient meat processors have but one real choice for sewage disposal. They participate in a project, not necessarily because they believe it is the correct choice, but because it is the only choice.

For example, one of our member company plants in the state of Iowa operates an older packing house, having undergone at least 5 major renovations/additions in the last 20 years. It is a complex slaughter house with three associated by-product processes - offal, hide curing and rendering. The plant has the capacity to slaughter 8,000 fat cattle per week. It employs several hundred people and injects some $10 million annually into the local economy.

This plant has discharged into a city sewage system after pretreatment since the early 1960's. In 1972 and 1973, the plant was faced with the proposition of treating its own wastes or participating with the city in upgrading its facility. The plant's share of the project was set at 50% of all User Charges and 45% of the Federal Grant amount for Industrial Cost Recovery for loadings of 13600#/day BOD, 13000#/ day SS and 1.5 mgd. Concurrently, the plant evaluated the costs for self treatment and discharge on land near the plant on the edge of town. The projected economics of the alternatives were nearly equal and, since prior working relations with the city were satisfactory, the plant chose to continue discharging into the municipal system.

However, the costs projected at that time, upon which budgets, projections, and decisions had been based, could not and did not reflect many of the newer requirements of the Grants Program. Subsequently, when EPA 1) established minimum satisfying levels, 2) expanded monitoring programs, increasing both the number of parameters and frequency of tests, 3) added the Infiltration/Inflow evaluation program, and 4) ordered the "bid equal" provisions, they increased both the cost of the project and length of time for completion. With inflation compounding the severity of the increases and delays, the plant's first year's share of operation and maintenance was nearly $102,000, some 229% greater than the original projection of $44,500.

When these "updated" User Charges are compared over the life of the project to the costs for self-treatment utilized in the previous decision making process, quite a disparity becomes evident. Projections indicate that by 1996, the plant will have paid $2,475,019 more than necessary for sewage treatment. Ironically, that amount is very near to the amount the plant must repay under ICR - $2,370,900.

Further, when the costs associated with the use of the "new" POTW are extrapolated, related to production and sewage loadings for our Iowa plant, and are compared to the "old" POTW, a significant increase in cost per production unit is evident. The ideal period for comparison is June thru October 1977 for the old POTW and June thru October of 1979 for the new POTW, since sufficient data is available and the figures are representative of normal operating conditions for the period. The average sewage cost per head of beef for the old POTW was $.116 versus $.384 for the new POTW without ICR. If ICR had been collected the cost would have been $.628. These represent 330% and 541% production unit cost increases for the new POTW over the old POTW without ICR and with ICR respectively, while the plant simultaneously reduced its loading nearly 50%. Imagine what the costs would have been had the plant not reduced its loadings! Note also that the new POTW costs with ICR are some 63.5% higher than they would be without ICR - a very significant increase.

Lets now take a quick look at a second midwest packer facility within several hundred miles of the one previously cited. Although somewhat newer, the second plant is larger -- slaughtering 14,000 fat cattle per week -- and more complex in that it has two additional associated by-product processes more than the first. A rural location permits them to provide their own secondary treatment and discharge directly into surface waters. Loadings to their system average 44,000 lbs. BOD per day, 40,600 SS per day and 2 million gallons per day.

When the second plant, the direct discharger, is compared with the first, the indirect discharger to a municipal system, we find that the raw sewage loadings are some 3 times greater and stream standards require a comparable level of treatment before discharge. However, the sewage cost per head for the complete treatment for the second plant was .357 for calendar year 1979. The conclusion to be drawn is obvious. Complete treatment at raw loading at three times the pollutant load was less than the cost to discharge to a municipal without ICR.

At the inception of PL 92-500, the concerns of Congress regarding the use of Federal funds to subsidize private enterprise was a key issue. Industry would be paying its fair share through user charges and local debt service. Actually, Congress was saying industry should pay more than other users.

If parity is a desirable goal for sewage costs for those who self treat and direct discharge versus those who are served by a municipal system, and indirectly discharge, perhaps it will be necessary to subsidize the indirect discharger.

If EPA and Congress are true advocates of the regionalization concept of treatment in order to eliminate and/or consolidate point discharges, some incentive is needed to influence joint treatment. As it is now conceived, however, ICR will continue to function as a penalty, a deterent to regionalization.

Another of the objectives of ICR, to encourage conservation, has proven to be a little merit. National Meat Association members have, and will continue to upgrade pretreatment systems primarily to (a) enhance byproduct recovery, (b) reduce maintenance costs in plant due to plugging of sewers, repairs and down time and (c) reduce energy consumption. Of lesser significance in our conservation efforts is the savings incurred by reduction in the amount of well water pumped and treated. Currently, had ICR been in effect, we would have realized no savings by our in-plant pretreatment/conservation projects.

We urge Congress to promptly consider legislation which would repeal the ICR provisions of the Clean Water Act.

State of California
WASHINGTON OFFICE
600 PENNSYLVANIA AVE., S.E., SUITE 201
WASHINGTON, D.C. 20003
(202) 543-6100

EDMUND G. BROWN, JR.
GOVERNOR

RECEIVE

April 1, 1980

Honorable Ray Roberts
Chairman
Subcommittee on Water Resources
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Roberts:

On behalf of the California State Water Resources Control Board, I respectfully request that the enclosed statement be made part of the Subcommittee on Water Resources' hearing record regarding legislation, H.R. 6667, to amend the Federal Water Pollution Control Act.

Thank you for considering this request and for the opportunity to present the views of the State of California.

Sincerely,

R. Gary Magnuson

R. Gary Magnuson
Assistant Director
for Resources

Enclosure

STATEMENT OF THE STATE OF CALIFORNIA WATER RESOURCES CONTROL BOARD AT THE HEARING ON H. R. 6667, A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT REGARDING EXTENSIONS OF AUTHORIZATIONS AND INDUSTRIAL COST RECOVERY

It is our understanding that testimony is desired only on Sections 104, 106, 204, 208, 314 and 517 of the Act (PL 92-500).

Section 104: This section relates primarily to research programs and special studies. However, a portion of this section involves grants for pilot projects for training sewage treatment plant operators. We are very concerned about the lack of Federal support, on an ongoing basis, for operator training programs. While billions are being spent to build sophisticated wastewater treatment facilities, almost no funds are being spent to train operators to operate such plants. This issue may relate more to Section 109, which is not the subject of this hearing, but we feel it is of sufficient importance to be mentioned at this time.

Section 106: Over the past two fiscal years the SWRCB has had to substantially reduce the staff-years supported by Section 106 funding. This trend is projected to continue into the foreseeable future due to the following:

a. A real dollar reduction in the 106 funds provided, and

b. The fact that 106 funding has not been increased to keep pace with inflation.

To date 17 staff-years have been eliminated in California.

This issue has brought to light a management problem related to administration of 106 funding. It is the approach of EPA to allocate 106 funds across the full range of State Board water quality activities.

As a result, approximately $2.8 million in 106 funding in California is leveraged against a state expenditure of $10 million. The minimum state match for 106 funds is $3.3 million.

The impact of this strategy is that with reduced Federal funding the Board is required to make commensurate program reductions. In this process, EPA takes the position that reductions must be made in areas outside Federal priorities. It is the state's position that reduced Federal funds should not preclude consideration of reductions in Federal-oriented program activities. It is the state's position also that re-prioritization will be far more responsive to water quality needs within a state if the state at least has a voice in this process.

Section 204:

- o The cost of administering the ICR program has grown substantially. This is due in part to the expansion of its application to relatively small operations. In California, the 25,000 gallons per day of sanitary waste or equivalent will include large commercial users such as department stores, car washes, laundries and large multi-family townhouses.

It is our recommendation that:

- o That the minimum flow rate which would subject an industry to ICR be increased. (100,000 gpd)
- o That local communities be allowed to retain the total ICR collected for future plant expansion/replacement or other wastewater related projects.
- o That if administrative costs exceed amounts collected, the Federal Government will reimburse the community for the difference.

Section 208: The funding authorization for the 208 planning program is provided in Subsection (f)(3) of this section. The final authorized amount was $150 million for F.Y. 1980, ending September 30,1980. The 208 program should continue beyond next fiscal year, therefore, a new authorization is needed. It is our recommendation that the authorization be continued at the $150 million level. It is also recommended that a multiple-year authorization and multiple-year appropriation be provided in order to add some stability to the program. Section 208 (f)(3) provides grant funds only for planning. Grant funding for actual implementation (i.e., construction) is not provided. It has become increasingly clear that nonpoint source pollution is a major factor in water quality protection and, in relation to point source pollution, is becoming more important as time passes. Subsection (j)(9) of this section authorized to be appropriated to the Secretary of Agriculture $200 million for F.Y. 1979 and $400 million for F.Y. 1980. This money was to be used for the "Rural Clean Water Program". This would have been an effective source of implementation funds. The money has never been appropriated. It is recommended that this money be reauthorized for the coming year and appropriated to assist in implementation of needed nonpoint source facilities.

Also regarding Section 208(j), in December 1979, new regulations were proposed to carry out an experimental Rural Clean Water Program. These regulations do not provide for any substantive responsibilities for the Governors and State Water Quality Agencies. Implementation of the RCWP in compliance with these proposed regulations therefore does not appear to be the program intended by Section 208(j) of the Clean

Water Act. The program's primary objective should be the control of nonpoint source pollution for improved water quality. For the program to achieve this primary objective, it is suggested that the program include mandatory adherence to project area priorities set forth in state adopted and EPA approved water quality management plans. In addition, State Water Quality Agencies should be given a more substantive role including responsibility for concurrence of any proposed project.

Section 314: The Clean Lakes program is important to the State of California as it is one of the few sources of funds available to carry our control on nonpoint source pollution. The State Water Resources Control Board recently released a draft Water Quality Plan for the Lake Tahoe Basin which relies heavily on Clean Lakes grants to protect Lake Tahoe water quality. Erosion, caused by poor development practices, is increasing the nutrients reaching the Lake. Over the past twenty years, algal growth rates have doubled. Strict controls on development are required to prevent additional erosion problems. In addition, erosion control projects, such as revegetation of bare areas, costing $63 million on the California side, are needed to prevent further deterioration of water quality. Clean Lakes grants are needed to help pay for the program. EPA has limited implementation grants to 50% of project costs, instead of the 70% authorized by Section 314. Because of the importance of protecting Lake Tahoe, we intend to make a major commitment of state funds to match Clean Lakes grants, so that our Lake Tahoe Water Quality Plan can be implemented.

It is important that Section 314 remain flexible enough to deal with the variety of pollution problems affecting our lakes, and that adequate funds be provided to protect outstanding national resources such as Lake Tahoe. It is also desirable that grants be given at the 70% authorized.

Section 517: It is our understanding that none of the state's various Federal fund sources (i.e., 106, 208, 201) come out of this authorization. We would like, however, to take this opportunity to comment on two generally related issues:

(1) California does not have a specific recommendation on the level of funding which should be established. We are, however, working closely with the Association of State and Interstate Water Pollution Control Administrators to develop recommended levels.

(2) We are concerned on the issue of funding stability. It is critical, in order to efficiently plan and manage a program of this magnitude, to be able to predict funding levels past the current year. While multiyear appropriations extending several years into the future would be desirable, we recognize the problems this would create for Congress. Therefore, we would recommend that Congress consider either (1) adoption by the Appropriation Committee of two-year appropriations, or (2) adoption of the concept of "year-ahead" appropriations.

STATEMENT FOR THE RECORD

by

Michael P. Mauzy, Director

Illinois Environmental Protection Agency

I thank the Subcommittee for scheduling hearings to receive testimony on limited amendments to the Clean Water Act (Act). I understand and fully support the desire of the Subcommittee to limit consideration of changes to the Act to only those necessary to reauthorize funding for program activities and other essential or non-controversial minor clarifications. The 97th Congress will consider the more comprehensive changes to the Act, so at this time, changes made should be limited to those which do not interfere with the necessary stability of program actions. As a State administrator, I understand fully the impact of uncertainty and program impact of changing requirements. I submit this information for the record on behalf of the Illinois Environmental Protection Agency (IEPA) and the State of Illinois.

I take special note, Mr. Chairman, that this Subcommittee, your colleagues on the Committee and the full House of Representatives have already acted on HR 4113 which provides some needed amendments to the Act. Your actions are but another indication of your firm commitment to the national water quality program.

The fact that I am submitting information for the record should not be interpreted as limited interest in the issues to be considered, but rather as my desire that your deliberations not be unnecessarily delayed by protracted verbal testimony. Following your review of my statement, I will be pleased to respond in writing to questions you may have or to comment more fully on issues impacting the Act.

In my statement, I address reauthorization of program activities carried out pursuant to Sections 106, 208 and 314 of the Act; a minor clarifying amendment to Section 106(e)(2); a minor change to Section 203(a); and resolution of Industrial Cost Recovery required by Section 204(b) of the Act.

Section 106 Reauthorization

Since enactment of PL 92-500 in 1972, IEPA has received Federal funding to complement State funding to carry out its water pollution control program. The following tabulation shows the budgeted funds by source since State fiscal year 1973 (July 1, 1972 through June 30, 1973) for the IEPA *direct* water pollution program.

State Fiscal Year	Federal Funding (106) K $	State Funding* K $	% Federal Support
1973	826.8	1911.3	30.2
1974	1175.7	2272.6	34.1
1975	1574.3	2000.5	44.0
1976	1598.0	2324.2	40.7
1977	1698.0	2420.8	41.2
1978	1952.0	2427.8	44.6
1979	1952.0	1803.1 **	52.0
1980	1831.0	2318.6	44.1

*Data is for *direct* program only -- does not include laboratory, data processing and indirect cost all of which are 100% state supported. FY 80 costs for these areas are $2118.5K.

**First year of 205(g) delegation -- misunderstanding over maintenance of effort requirements -- state funding was restored in FY 80 to meet the requirement.

Since FY 1975, the allocation formula for distribution of Section 106 funds to state programs has been relatively stable so that the federal funds to Illinois are indicative of total federal funding commitments. The level of federal funding available has an effect on the level of Illinois funding made available to the program -- the State cannot or will not absorb the impacts from reduced federal funding, program cost increases and mandated expansion of the water quality program activities. Any "freed up" 106 funds resulting from delegation of the

205(g) program have been completely consumed by cost increases and the new pretreatment initiative. Other new activities relating to non-point source program implementation, toxic water quality program development and implementation, further expansion of pretreatment, etc. will increase the pressures on program funding. In recognition of the realities, Illinois participated actively in the development of the Association of State and Interstate Water Pollution Control Administrators' "Recommendations for an Improved National Water Quality Program". We must, in my view, continue to examine and re-examine program requirements, procedures, and activities seeking to identify better ways of managing the program and to identify and eliminate misdirected or ineffective activities from the program.

Many believe that enactment of the construction grants management assistance program under Section 205(g) with the ability to use such additional funding for implementing programs under Sections 208, 402 and 404 of the Act have lessened the need for increased funding of the base program under Section 106. For Illinois, this perception is incorrect because:

1. State program activities under Section 205(g) have expanded and cost more each year while construction grants appropriations have decreased.
2. State commitments and responsibilities under Section 205(g) continue for 2 or more years even if the construction grant program is terminated. The level of resources needed will decline, but some level of effort is required until projects under construction are completed and the grant project closed.

3. Diversion of funds from activities relating directly to the construction of treatment facilities is not acceptable in Illinois and is contrary to the commitments made by IEPA to our local governments at the time of delegation.

In summary, IEPA strongly supports reauthorization of Section 106 program funding. The reauthorization period should be for FY 81 and FY 82 so that the future needs in this base program can be more fully considered as a part of the 1982 Congressional review of the Act. The level of reauthorization should be at the present $100 million per year level or alternatively reduced to a $65 million per year level. Given the fiscal pressures at the national level over the next two fiscal years and the history of appropriation action by the national administration and the Congress, actual appropriation at a level higher than $65 million is unlikely. Such a reduction in authorization will not be interpreted in Illinois as a reduced Congressional commitment to the program, but rather as an effort to reconcile aspiration with reality.

I have several concerns with the water quality program carried out under Section 106 of the Act. From a state perspective 106 funds are a federal cost share for operation of a base water quality program. Appropriations over the past few years have been stable (reduced in fiscal year 1980) and therefore have not kept pace with cost increases for a constant level program nor provided for the mandated program expansion. The resulting pressure at the state program level has lead to prioritization of activity, more efficient procedures, and in some cases suspension of selected program activities. USEPA is now considering abolishing the allotment formula for distribution of appropriated funds to states -- the inevitable result will be to further compound uncertainty and make state program management more difficult. If this action is taken, the base program will be converted into an annual exercise in grantsmanship with funding uncertainty well beyond the deadlines for state budget and program decisions. The USEPA proposed system is now used for Section 208 grants, air pollution program grants, etc. and has been demonstrated to be detrimental to sound program planning, development and implementation. An argument can be made for such an approach to grants programs to carry out special studies, projects, etc. (Section 208 approach) but no justification can be developed for such an approach to basic program administration.

My second concern is the ability of state programs in an era of limited program resources to appropriately respond to recent concerns of the Congress with regard to the adequacy of and justifications for state water quality standards. With increasing frequency, questions are raised about the "attainability" and validity of the state standards (beneficial stream use designation as well as water quality critera for each specified use). These questions can only be answered following a comprehensive review of existing standards considering, using some socioeconomic criteria, the likelihood of attainment. Since the new judgemental criteria are different than employed by states in past standards actions, USEPA must provide clear, understandable, yet simple criteria which they will use in approval of stream use classification downgrade, in my opinion an inevitable result of such a re-examination. The initial efforts on this massive re-review could be done under a redirected Section 208 program for fiscal years 1981 and 1982; however most states will not be able to complete in a two year period such review and revision of standards which meet the USEPA burden of proof requirements. Therefore, a new program demand is created for Section 106 resources. Where will the resources come from to complete the actions demanded by Congress?

Section 208 Reauthorization

The areawide waste treatment management program under Section 208 of the Act is an important part of the national water quality program. A comprehensive assessment of the Illinois program was presented in July 1979 to the Subcommittee on Oversight and Review and in the interest of brevity I will not expand further on the importance, scope, nature and problems of this program.

Illinois supports reauthorization of the planning programs under Section 208(f)(3) for fiscal years 1981, 1982 and 1983. Funding for this program should be terminated at the conclusion of fiscal year 1983. A funding level of $50 million per year for the concluding period of this program is adequate and is recommended.

Although not much has been discussed with regard to reauthorization of the Rural Clean Water Program under Section 208(j)(9), Illinois supports a continuation of this important program to control sediment. We therefore support reauthorization of this program for fiscal years 1981 and 1982 at a level of $200 million each year. A two year reauthorization will allow this program to move forward and also allow re-examination of the program in the context of the overall water quality program by the 97th Congress. I am aware of the controversy concerning the Rural Clean Water Program under the Act as opposed to a restructured program in other legislation. I have no interest in becoming involved (or caught between) the bureaucratic turf battles between two programs of the Department of Agriculture; however, Illinois wants, needs and supports an aggressive, effective program including federal cost sharing for the prevention of erosion from agricultural lands. In fiscal year 1981 the State will begin a separate, parallel program to complement the anticipated federal program so that progress in resolving this important water quality and land stewardship program can be expedited.

In fiscal years 1981 and 1982 the 208 program should not be limited to exclusively non-point source problems and activities. The non-point sources of pollution are important and less is known about the effectiveness and cost of various options for control; therefore, they must remain a high priority for study under Section 208 planning programs. Of equal priority, however, should be a new national priority to review and examine the adequacy, validity and attainability of state water quality standards. Both scope and stringency of point source and non-point source control measures are determined by water quality standards. The concluding two years of the first decade under the Clean Water Act are appropriately devoted to a thorough re-examination of the technical and socioeconomic basis for water quality standards -- after all, these standards will provide the foundation to the program through most of the 1980's.

Section 314 Reauthorization

Section 314 of the Act establishes a grants program to deal with water quality problems impacting lakes, an important part of the aquatic ecosystem. Although this provision of the Act has not received the high program priority assigned other activities, the lakes program is important and progress has been made.

USEPA has provided some limited grant assistance in fiscal years 1979 and 1980 to states to assist in development and implementation of lake classification procedures. We expect these funds to terminate in fiscal year 1980 and we believe the lake classification work should be completed by that time. In Illinois, this funding has enabled our program to make more progress than would have otherwise been possible. The Phase I (planning) and Phase II (implementation) approach to defining and resolving problems with specific lakes is a well reasoned process, including the different cost share rates set for each phase of activity.

Lake restoration is an immense undertaking. Most problems will not be resolved nor will measurable progress be made with historic funding levels. For this reason we advocate an approach to focus available funding on measures and management programs needed to preserve presently high quality lakes which can be identified in each state. With such target funding, degradation of lake assets can be slowed or stopped as a first priority.

Illinois supports reauthorization of Section 314 programs for fiscal years 1981 and 1982. This action will allow the lakes program to be more fully considered in the context of the national water quality program and priorities in the 97th Congress.

The reauthorized funding levels should be a continuation of the fiscal year 1980 level of $60 million or alternatively reduced to a level of $30 million for fiscal years 1981 and 1982. Appropriation at anything like $60 million (or $30 million) is unlikely in the next two years.

Section 106 Amendment

Section 504(b) was added to the Act in 1977 to provide USEPA with an emergency contingency fund capability for water quality incidents. At no time in the Congressional testimony did anyone raise the issue of requiring a similar emergency fund in each state, particularly in the context of a prerequisite for states to receive funding from the basic Section 106 grant program.

On September 14, 1978 USEPA issued SAM-35 which established as USEPA policy a requirement that each state have an emergency contingency financial response capability in addition to the previous existing emergency requirements.

This new requirement became a prerequisite to FY 80 Section 106 grant award. More recently USEPA has deferred implementation of this requirement until Congress acts on the proposed "Superfund" legislation; however, SAM-35 has not been withdrawn nor do states have assurance the issue will not suddenly arise again.

To correct this problem a simple amendment to Section 106(e)(2) of the Act is needed and Illinois supports the inclusion of this amendment as a part of the legislative action on Section 106 reauthorization. Section 106(e)(2) should be amended to make reference to only Section 504(a). This action would maintain the emergency requirements prerequisite to Section 106 grant award identical to those requirements in existence before the 1977 amendments. States would be required to have adequate emergency legal authority and contingency planning -- but without imposing a new financial burden on states to establish and maintain an emergency fund.

Section 203 Amendment.

The 1977 amendments to the Act in Section 203(a) provided for combined Step 2 and Step 3 grants for smaller projects to accelerate progress toward compliance by smaller communities. IEPA advocated this flexibility for many years. We know from experience in the Illinois separate, parallel state construction grant program that this flexibility, in most cases, provides the needed funding certainty and commitment to the project to stimulate grantees into expected actions.

This Subcommittee has on many occasions expressed concern with the complexity of the construction grants program and the ability of smaller units of local government to cope successfully with the complexities. Combined Step 2 and 3 grants can and do slightly reduce the complexity and do reduce delay times between steps. An increase from $2 million to over $3 million is needed to reflect the increased cost of construction since the funding cut-off was established by the Congress early in 1977. A revision to slightly over $3 million as part of the fiscal year 1981 reauthorizations will maintain this relief for the same group of communities as was intended in 1977; a further increase of the cut-off to $4 million will extend the relief to other deserving projects.

For these reasons, Illinois continues to support the combined Step 2 and 3 approach. Further we recommend that you increase the funding levels in Section 203(a) from the present $2 million/$3 million to a level of $4 million/$5 million. In this way more communities will be eligible for this needed relief and the programs in more communities can be expedited.

Section 204 Amendment

The Industrial Cost Recovery (ICR) provisions of Section 204(b) of the Act have been the subject of much controversy in the Congress these past two years. Many have advanced the position that the administrative procedures for assessment and collection of these charges are excessively complex and expensive to implement. Others have contended that changes to the tax laws and codes have made the intended purposes of ICR moot and, in fact under today's conditions ICR creates an incentive for industry to withdraw from a POTW system.

IEPA believes that industry should not be penalized for discharging into a POTW and that further proliferation of discharges, particularly in our urban or urbanizing areas is not appropriate from a stream water quality perspective. Decentralization will degrade water quality, enhance potential for detrimental impacts from spills and treatment plant upset, expand compliance and enforcement problems experienced by the state and our local governments, and create revenue problems for existing POTW's (thereby unnecessarily increasing charges to remaining users). On the other hand, we do not believe that industry should be subsidized by a public investment program.

Therefore, we recommend to the Congress that (1) the existing 25,000 gallon per day floor be retained to exempt from ICR the large numbers of potential commercial or business establishments potentially subject to these requirements; (2) each grantee be allowed to develop and implement a system of cost recovery designed for that jurisdiction, subject to USEPA approval at the regional level to insure that the proposed system can and will recover funds; (3) each grantee retain all funds collected from their system of cost recovery with funds used to accelerate local treatment works debt retirement in order to accelerate achievement of economic self-sufficiency of the POTW; (4) each grantee be required to submit annually a certified audit of funds collected and used; and (5) each grantee be provided an opportunity to justify to USEPA that an ICR system is unneeded or unnecessary based on the amount of cost subject to recovery compared with the cost of establishing and implementing a recovery system (as an alternate, establish a floor on capital cost allocable to industrial users as a criteria for exemption of a mandatory ICR system).

IEPA recognizes that structuring such a modified program will take time and the legislative pressures are great. If insufficient time is available to develop a restructured ICR program, we support deletion of the ICR requirement from the Act.

MPM:rd/sp0951B/1-15

D. W. McKENZIE, [illegible]
DOUGLAS M. FRALEIGH, [illegible]
W. C. [illegible], JR., [illegible]

COUNTY OF SACRAMENTO
DEPARTMENT OF PUBLIC WORKS
COUNTY ADMINISTRATION BUILDING • ROOM 304 • 827 SEVENTH STREET
SACRAMENTO, CALIFORNIA 95814

March 5, 1980

The Honorable Ray Roberts, M.C.
Chairman, Water Resources Sub-Committee
House Public Works & Transportation
Room 2165, Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Roberts:

Subject: Hearing on H.R.6667, March 11, 1980

The recent study by Coopers-Lybrand indicated that Industrial Cost Recovery (ICR) provisions requiring industrial pay-back of federal grant funds was not meeting Congress' intended purposes. In interviews with the Coopers-Lybrand firm, the Sacramento Regional County Sanitation District had indicated that continuation of ICR provisions would probably result in departure of major industrial users from the newly constructed Regional sewerage system. This has in fact now occurred. Libby, McNeill & Libby cannery employs 100 people year round, and 900 people on a seasonal basis and has announced its plant closure effective March, 1980. Campbell Soup, while retaining present cannery facilities, is developing a land disposal site for waste disposal at the urban boundary.

Present sewer service charge structures, with ICR excluded, make joint use of a municipal system by industry marginal at best. With ICR added, joint use of a municipal system is clearly not economical. The continuing uncertainty as to ICR pay-back will preclude significant additional industrial use of the municipal system and will impair this community's ability to broaden its industrial base.

The Board of Directors of the Sacramento Regional County Sanitation District includes the Board of Supervisors of the County of Sacramento, and the Mayors of the Cities of Sacramento and of Folsom. The District serves an urban population of 750,000. The Directors earlier passed the attached resolution recommending that Congress eliminate in their entirety the Industrial Cost Recovery provisions of PL 92-500 and PL 95-217.

This District is strongly supportive of the elimination of ICR as proposed in H.R.6667.

Very truly yours,

D. W. McKenzie
D. W. McKenzie
District Engineer

DWM/WSH:cc
Attachment: Resolution No. SR-346
cc: The Honorable Harold T. "Bizz" Johnson
Members of the Board
B. H. Richter, County Executive

Address of cc:

The Honorable Harold T. "Bizz" Johnson
2347 Rayburn Building
Washington, D.C. 20515

and

320 Vernon Street
Roseville, CA

Members of the Board
Sacramento County

Mr. Ted Sheedy, Supervisor
1st District
700 H Street, Room 2450
Sacramento, CA 95814

Illa Collin, Supervisor
2nd District
700 H Street, Room 2450
Sacramento, CA 95814

Sandra R. Smoley, Supervisor
3rd District
700 H Street, Room 2450
Sacramento, CA 95814

Fred G. Wade, Supervisor
4th District
700 H Street, Room 2450
Sacramento, CA 95814

C. Tobias Johnson, Supervisor
5th District
700 H Street, Room 2450
Sacramento, CA 95814

The Honorable Rodney Carmody
Mayor of Folsom
50 Natomas Street
Folsom, CA 95630

The Honorable Phillip L. Isenberg
Mayor of Sacramento
City Hall
915 "I" Street
Sacramento, CA 95814

RESOLUTION NO. SR-346

RESOLUTION EXPRESSING THE DISTRICT BOARD'S OPPOSITION TO INDUSTRIAL COST RECOVERY

The Congress in Public Law 95-217 ordered EPA "to study the efficiency of, and the need for, the payment by industrial users" of their share of the Federal grants for publicly owned treatment works used by Industry--that is, the Industrial Cost Recovery provisions of the Law, and

WHEREAS, the EPA study has found that the ICR does not substantially satisfy any of the intended purposes of this provision, and

WHEREAS, the EPA study has found "for some medium or large industries... it is least expensive in the long run (for an industry) to self-treat than to pay" a proportionate share of costs in a publicly owned system, and

WHEREAS, the Sacramento Regional County Sanitation District has at least six major industrial plants which have historically utilized the community system, some or all of whom could logically make a decision to withdraw from the regional system if the costs of such system plus Industrial Cost Recovery are not economically competitive, and

WHEREAS, withdrawal of any of the subject industries from the regional system, which entails a $420 million investment, will defeat a major purpose of this effort to eliminate the existing system of twelve dispersed plants by creating new industrial wastewater treatment facilities peripheral to the City, and

WHEREAS, the subject industries have already experienced a major increase in sewer user charges (some in excess of 100%) due to the regionalization project, under fully allocated costs, and the added average 54 percent increase which Industrial Cost Recovery would impose could make the use of individual disposal systems economically attractive, and

WHEREAS, it is desirable to retain all of the industries in the regional system to avoid undesirable changes in the cost distribution to all other users, and,

WHEREAS, the Board of the Sacramento Regional County Sanitation District believes all possible encouragement of municipal wastewater treatment systems should be given to keep alive and vital the industrial employers in developed older City locations;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Sacramento Regional County Sanitation District supports the finding in the EPA study relative to Industrial Cost Recovery and recommends that the Congress eliminate in their entirety the Industrial Cost Recovery provisions of PL 92-500 and PL 95-217.

On a motion by Director Pope *, seconded by Director* Wade *, the foregoing Resolution was passed and adopted by the Board of Directors of the Sacramento Regional County Sanitation District, this* 13th *day of* March *, 1979, by the following vote, to wit:*

AYES : Directors, Carmody, Collin, Johnson, Pope, Wade, Sheedy
NOES : Directors, None
ABSENT: Directors, Smoley

Joseph E Sheedy
~~Vice~~ *Chairperson of the Board of Directors of the*
Sacramento Regional County Sanitation District

(SEAL)

[illegible]

ATTEST: Betty D. Poohar
Betty D. Poohar, Clerk of the Board of
Directors of the Sacramento Regional
County Sanitation District

MAR 13 1979
[illegible]

FILED
MAR 13 1979
BOARD OF DIRECTORS
Betty D Poohar
Clerk of the Board

RESOLUTION NO. SR-346

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AYES : Directors, Carmody, Collin, Johnson, Pope, Wade, Sheedy

NOES : Directors, None

ABSENT: Directors, Smoley

Joseph E Sheedy

~~Vice~~ Chairperson of the Board of Directors of the Sacramento Regional County Sanitation District

(SEAL):

[illegible]

ATTEST: Betty D. Poohar

Betty D. Poohar, Clerk of the Board of Directors of the Sacramento Regional County Sanitation District

MAR 13 1979

FILED

MAR 13 1979

BOARD OF DIRECTORS

Betty D Poohar

Clerk of the Board

RECEIVED
MAR 17 1980
PUBLIC WORKS AND TRANSPORTATION COMM

Union Camp

P. J. McLaughlin
President

1600 VALLEY ROAD, WAYNE, NJ 07470 TELEPHONE (201) 628-9000

March 13, 1980

The Honorable Harold T. Johnson
Public Works and Transportation Committee
U. S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I want to express Union Camp's deep appreciation for the assistance and leadership you have continued to provide in seeking a meaningful resolution to this industry's concerns over EPA's implementation of the Clean Water Act's Best Conventional Technology (BCT) provision.

Our industry looks forward, in a cooperative spirit, to receiving and reviewing the draft effluent water guideline numbers for pulp and paper that EPA has indicated it will provide to us during the next month. We genuinely hope that they will reflect the "economic reasonableness" intended by Congress in 1977.

In the interim, I did want you to know how much your leadership and interest in resolving this serious issue is appreciated and valued. Please be assured of our willingness to assist you in any way that we can in this effort.

With best regards.

Sincerely yours,

P. J. McLaughlin
President

STATEMENT ON INDUSTRIAL COST RECOVERY PROVISION OF CLEAN WATER ACT

APWA is a non-profit, public-service organization consisting of government officials, engineers, administrators, and others engaged in the broad field of public works. APWA was organized in 1937 through merger of the American Society of Municipal Engineers (established in 1919) and the International Association of Public Works Officials (founded in 1920). Its roster now includes some 20,000 members located throughout the United States and Canada. APWA is composed of 62 geographically defined chapters and has a staff of 45 people. The association's headquarters is located on the campus of the University of Chicago.

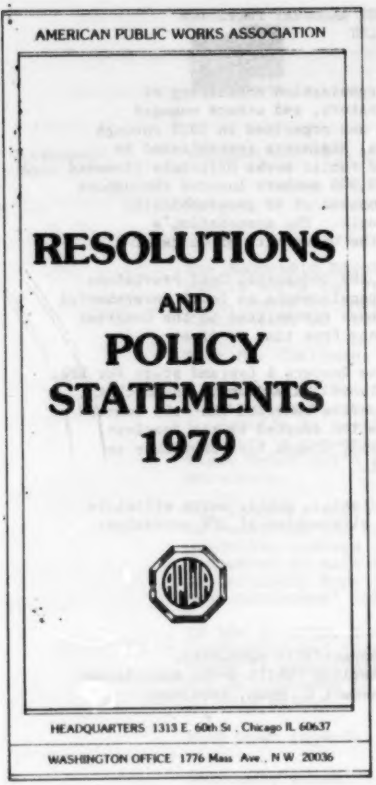
The association, since the adoption of the Industrial Cost Provisions in 1972, has studied the impact of these requirements on local governmental agencies. Results of these studies have been transmitted to the Congress and the U.S. Environmental Protection Agency from time to time.

In 1979, following the completion of the Coopers & Lybrand study for EPA, the association again considered the merits of ICR and again found that the disadvantages of ICR so outweighed possible benefits that the concept should be abandoned. A copy of the resolution adopted by the American Public Works Association meeting in Portland, Oregon last September is enclosed and made a part of this statement.

In conclusion, the members of our association, public works officials of almost every city of this nation, urge elimination of ICR provisions of the Clean Water Act.

Respectfully submitted,
American Public Works Association
Lambert C. Mims, President

Date: March 17, 1980



AMERICAN PUBLIC WORKS ASSOCIATION

RESOLUTIONS AND POLICY STATEMENTS 1979

HEADQUARTERS 1313 E. 60th St., Chicago IL 60637

WASHINGTON OFFICE 1776 Mass. Ave., N.W. 20036

resolution 10

industrial cost recovery

whereas the Industrial Cost Recovery provisions of the Federal Water Pollution Control Act Amendments of 1972 have been the subject of considerable criticism by local government officials since enactment of the amendments, and the membership of the American Public Works Association has repeatedly adopted resolutions urging Congress to correct the deficiencies of this legislation, and

whereas the Clean Water Act of 1977 provided for an in-depth study of the results, benefits, and costs of these provisions and provided for a moratorium on the collection of industrial cost recovery charges which expired on June 30, 1979, and

whereas the study conducted by the United States Environmental Protection Agency has revealed that the benefits anticipated by the Congress would not be realized by enforcement of the industrial cost recovery provisions, that the administrative costs are disproportionate to the amount of money that would be recovered, and that many wastewater agencies presently are experiencing or are anticipating the withholding of construction grant funds because of their inability to comply with these provisions, thereby delaying the construction of needed facilities, now therefore be it

resolved that the membership of the American Public Works Association assembled in Portland, Oregon, at its 85th annual business meeting on this 24th day of September, 1979, does hereby request the Congress to repeal the Industrial Cost Recovery Provisions of the Federal Water Pollution Control Act Amendments of 1972 at the earliest possible date.

RESUME OF
POLICY STATEMENTS

2.20 WATER RESOURCES

2.21 SAFE DRINKING WATER — The federal government has established stringent standards for drinking water to assure the safety of that supplied for public use. Many water utilities operated by local governments have neither the facilities needed to determine compliance with said standards nor the means for providing them. **APWA recommends that the federal government finance the establishment of state facilities or otherwise provide for testing services which may be utilized by water utilities operated by local governments.** (1976)

2.22 FEDERAL POLLUTION CONTROL PROGRAM — Comprehensive amendments to the Federal Water Pollution Control Act were passed in 1972. They were enacted into law as P.L.92-500 and established the framework for the present water pollution control program. The United States Environmental Protection Agency (USEPA) was given primary responsibility for implementing the legislation and controlling pollution. The role of the states was diminished; however, many persons involved in the water resources field believe that some aspects of the program could be more effectively administered by the states. **APWA recommends that the construction grant provisions of the federal water pollution control program be funded at a rate of at least $4.5 billion per year through fiscal year 1983. It believes that states should assume a larger role in the administration of the program and recommends that the federal government provide the funding required to enable the states to accept the delegation of this responsibility.** (1975, 1976, and 1977)

The industrial cost recovery policy adopted by the federal government presents complex legal and administrative problems for many communities. This policy requires local agencies to collect from all industries which they serve a proportionate share of the cost of constructing facilities to meet the needs of industries located in new areas of the community. This requirement applies to all industries connected to the agency's system even though many may be adequately served by existing treatment facilities. It would be difficult and costly for public agencies serving large numbers of industries to implement this policy in a fair and equitable manner. **APWA recommends that the industrial cost recovery requirement of the federal water pollution control program be eliminated or, at least, limited to industrial users discharging significant quantities of wastes into local collection systems.** (1974, 1975, 1976, and 1977)

The construction of separate facilities for the abatement of stormwater pollution was envisioned under category VI of the water pollution control program. However, the magnitude of identified needs far exceeds available resources. Therefore, only high-priority projects from a pollution abatement standpoint should be eligible for funding. **APWA recommends that federal action be taken to limit funding for stormwater pollution abatement projects to those that may be required for the effective treatment of urban stormwater runoff to meet the water quality requirements of receiving waters.** (1975)

The effective implementation of the construction grant portion of the federal water pollution control program requires the cooperation and support of citizens in the private sector and engineers and administrators at the state and local levels of government. There is a need for public understanding of the program as well as continued technical review of regulations proposed to be adopted for implementation of this legislation. **APWA encourages USEPA to utilize citizen advisory groups to obtain the views of responsible individuals from non-technical organizations on broad political and socio-economic issues involving the federal water pollution control program. It also recommends that USEPA appoint to its Technical Advisory Group representatives of organizations such as APWA's Institute for Water Resources, the Water Pollution Control Federation, and the American Society of Civil Engineers, whose members have pertinent professional training and experience in the implementation of water pollution control programs.** (1976)

STATE OF ALASKA
DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH O – JUNEAU 99811

March 12, 1980

RECEIVED
MAR 17 1980
PUBLIC WORKS AND TRANSPORTATION COMMITTEE

The Honorable Ray Roberts
Chairman, Subcommittee on Water Resources
Committee on Public Works & Transportation
United States House of Representatives
Washington, D. C. 20510

ATTENTION MS. JOAN KOVALIC

Dear Representative Roberts:

I understand that your subcommittee is seeking the advice of states and the Association of State and Interstate Water Pollution Control Administration on possible revisions to the Clean Water Act of 1977 regarding federal grants to state water pollution control programs. We hereby submit this letter for inclusion in the official record of the subcommittee.

The U. S. Environmental Protection Agency (EPA) funds continuing state water pollution control programs through Section 106 of the Act. However, the formula used by USEPA to determine the allocation of funds does not, in our view, comport with the requirement in Section 106 that the grants be allocated "according to the extent of the pollution problem in the respective state." As presently distributed, Alaska received only $148,000 in federal funds for its FFY 1980 water pollution control program. Alaska ranks as the lowest funded of all the states and second only to the United States' Territory of American Samoa, which was granted the smallest Section 106 grant allocation. This compares to a high of $2.87 million and $2.68 million granted to the states of California and New York, respectively. Alaska's high cost of travel, staffing, training, monitoring, and enforcement greatly affect our ability to do the important water pollution control work required of us. This is especially true in this new era of rapid industrialization in both Alaska's urban and remote areas.

Alaska's waters are spread over an area of 586,400 square miles, about one-fifth as large as the total area of all the other 49 states. All of Alaska's waters are presently classified to protect drinking (where applicable), fishing, and swimming uses. This applies to:

(a) All of its 33,900 miles of tidal shoreline;

(b) All our lakes. Alaska has an estimated three million lakes over 10 acres in size. The total number of lakes may very well be larger than the total in the remaining 49 states; and

(c) All of Alaska's rivers and streams with only one minor exception. The total number of Alaskan river miles is so vast that estimates have yet to be realistically produced. The mean discharge in Alaska is, however, estimated to be over 905 billion gallons per day. This is approximately 42 percent of the United States' total.

During this critical time in our history, where many other states' industrial and community wastewater discharges are stabilizing or declining, discharges in Alaska are increasing at a rapid rate. The distribution of land to Alaska Native corporations will result in a substantial increase in timber harvesting activities. The nation's demand for protein foods, energy, and raw minerals has seriously impacted Alaska's fishery and seafood processing; oil exploration extraction and refining; natural gas exploration, production and pipeline construction; and placer gold, coal, and ore mining industries, to name just a few.

Since virtually all of Alaska's waters presently meet the goal of the Clean Water Act expressed in Section 101(a)(2), our water pollution control efforts are largely preventative rather than remedial. Contrary to the image of Alaska as a vast rugged frontier, her ecosystems in general and water resources in particular are quite fragile. The large potential expansion of industrial activity in our State must be matched with an equally large expansion in our water pollution control efforts if Alaska is expected to maintain the goal of the Clean Water Act.

The State of Alaska has a good understanding of the serious effects inflation has on our society. Over the last seven years, the Anchorage Consumer Price Index has increased from 120.8 to 207.0. As such, Alaska shares the President's interest in paring down the federal budget as a means of fighting inflation. We recognize that this might mean reductions in the USEPA budget. However, special attention must be given to the massive energy and natural resource demands being put on us by the United States. The formula used in appropriation of water pollution control grant funds does not recognize Alaska's expanding growth and resultant environmental needs. As expressed in our Water Quality Management Five-Year Needs Assessment (completed at the request of the U. S. Environmental Protection Agency), Alaska's Sections 106, 208, and 314 grant funding needs are projected to increase over threefold from FY 79 to FY 84. The $148,000 granted us last year in Section 106 for environmental monitoring and control programs will not be sufficient to meet the future needs of Alaska's delicate environment. The State of Alaska encourages you to maintain Section 106 funding at its continuation level and, if at all possible, to revise the formula so that our State receives an equitable share.

It is unfortunate that the timing of Alaska's growth coincides with a serious inflationary period. It would be even more unfortunate if, because of a lack of attention, Alaska's clean water needs are ignored.

Respectfully yours,

Ernst W. Mueller
Commissioner

cc: Representative Don Young
Representative Edward Boland
Senator Ted Stevens
Senator Mike Gravel
Ms. Robie Savage
Ms. Peggy Hackett

National Broiler Council
1155 - 15th Street, N.W.
Suite 614
Washington, D.C. 20005
(202) 296-2622

Statement on H.R. 6667

Subcommittee on Water Resources
House Committee on Public Works and Transportation

March 17, 1980

The National Broiler Council, which represents the producer/processors of over 75% of the young meat chickens (broilers) marketed in the United States, is a not-for-profit trade association. A number of our poultry slaughtering/processing plants are discharging their wastewater into publicly owned treatment works (POTW) that are involved in industrial cost recovery (ICR). Our industry agrees that the ICR provisions of the Clean Water Act have not achieved the purpose intended by Congress and further, ICR places an unfair burden on plants using POTWs involved in ICR. Partially repaying a federal grant through the ICR provision as originally envisioned had merit; experience, however, has proved otherwise.

Section 2 of your bill H.R. 6667, co-sponsored by your colleagues Mr. Clausen and Mr. Johnson, correctly recognizes the inequity of ICR and we appreciate and support your efforts to correct this inequity. While we cannot support the ICR program, the poultry industry does, however, support equitable user charges to finance the operation and maintenance costs and for local debt servicing as long as all POTW users are paying their proportionate share.

We do not want to see the construction grants program stopped. If, as EPA has indicated, federal grants for the construction of industrial capacity in POTWs is stopped, it should not be stopped just for the industrial share of the POTW but for the community share as well. To re-emphasize the point, the poultry industry does not wish to stop federal construction grants to POTWs; it only seeks to remove the ICR provision which has proved inequitable.

The following is an example of where ICR creates inequities in the poultry industry. In one town where four poultry processing plants are located, the POTW was upgraded via a construction grant with the ICR program. This upgrading was done by the municipality after consultation with the poultry plants involved and assuring them that discharging into the POTW would be less costly and more advantageous than pre-treating by those plants. Even before the upgrading was completed, however, the POTW indicated to the poultry processing plants that it could not meet its permit requirements. In effect, the POTW said that the poultry processing plants would now have to build their own pretreatment facilities - an option that the poultry processing plants wished they had opted for in the first place. These four plants now face both ICR charges as a result of the upgrading of the POTW, as well as investment and operating costs for building and operating their own pre-treatment facilities. Space limitations prevent these processing plants from performing their own secondary treatment of wastewaters.

Congress originally believed that if industrial users did not pay a proportionate share of POTW construction costs (that is, ICR), the industrial users would, in effect, be receiving a federal subsidy and the wastewater treatment costs would be lower than those of their competitors who had their own wastewater treatment facilities. As a result of the relatively higher costs for industrial users to participate in POTWs, there could be a shift away from our industry participating in POTW's. For reasons of administrative requirements, capital costs, investment tax credits, and age of the POTW, it has generally been more costly for an industrial user to participate in a POTW involved in the ICR program than to self-treat.

Requiring industry to pay ICR costs essentially amounts to an additional or "double" taxation on industry. Both industry and citizens pay federal taxes and a part of these taxes are used as construction grants in the ICR program to fund POTWs. Although both the community and industry participate in the POTW, only industry is required to pay the ICR charges. Congress' action in 1972 to incorporate the ICR provision into the Federal Water Pollution Control Act of 1972 may have been well intended, but the experience with ICR has proved otherwise. This provision is proving to be inequitable and appropriate corrective action to repeal the ICR provision must be taken. Without a repeal of the ICR provisions as you have provided in Section 2 of H.R. 6667, industry will continue to incur "double" taxation with little, if any, offsetting benefits to improvement in the environment.

We support Section 2 of H.R. 6667 which repeals the ICR provisions of the Federal Water Pollution Control Act of 1972. Thank you for the opportunity to submit these comments.

* * *

National
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of
Cities

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STATEMENT SUBMITTED

BY THE

NATIONAL LEAGUE OF CITIES

TO

HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
SUBCOMMITTEE ON WATER RESOURCES

ON

REAUTHORIZATION OF CERTAIN SECTIONS OF THE
CLEAN WATER ACT

MARCH 20, 1980

The National League of Cities, representing 15,000 municipalities, appreciates the opportunity to state for the record our views on reauthorization of sections of the Clean Water Act (CWA) that expire this year.

In brief, NLC supports reauthorization of these sections of the Clean Water Act without change, particularly Sections 104, 106, 208, and 314. We believe that, given the current budgetary realities, the funding levels proposed by the Administration are sufficient. NLC also supports a two-year reauthorization for these sections.

On the issue of industrial cost recovery, NLC has supported these requirements in the Act in the past. We supported the cost recovery program as a method to provide revenue to municipalities in financial difficulty and to help finance system improvements and rehabilitation, but we have waited in vain for the Environmental Protection Agency to develop cost recovery guidelines that are equitable and workable. We leave it to the Subcommittee to judge from EPA's record and testimony whether a cost recovery program is a practical possibility.

We appreciate that the Committees in both Houses do not have sufficient time or opportunity this year for a close examination of the programs that are expiring. We believe, however, that next year will be a propitious time for a thorough review of the entire Act. In 1982, Congress must reauthorize the wastewater construction grants program; by then most areawide 208 plans will be approved and certified and there will be some record of implementation experience to examine. For these reasons, NLC supports a simple two-year reauthorization of the CWA sections expiring this year, so that Congress can conduct a full and integrated review of all CWA programs.

In anticipation of this review, we would simply point out to the Subcommittee some of the important issues that will be ripe for your consideration in 1981 and 1982. We believe that, among other issues, the Subcommittee should carefully examine:

- Funding mechanism for wastewater construction grants. It seems evident that the state allocation formula has not been a satisfactory mechanism in its present form to distribute construction funds. Among other problems, it has encouraged last minute obligations of low priority projects, and delays in many states where the allocation is not sufficient for projects ready for obligation. NLC has supported the commendable efforts of this subcommittee to enact H.R. 4113 to alleviate some of the problems of the existing funding mechanism. If H.R.4113 is not enacted by Congress this year, we believe the method of distributing construction grant funds should be overhauled in the 1982 reauthorization. The Subcommittee should consider options such as the two-tier mechanism of H.R.4113; state allocation with a borrowing pool; an entirely or partially discretionary program; a longer time period for obligating funds; and other mechanisms to improve the flow and obligation of 201 funds.
- Categories of projects eligible for funding. In general, Congress must determine the degree of flexibility it will allow in funding projects to abate water pollution. To a large extent, this flexibility is affected by the categories of projects eligible for funding under the 201 program. We have seen that the existing categories have not always been the most cost effective method of addressing a particular water

pollution problem, nor the most energy efficient. Nor has the existing program been flexible enough to meet some serious pollution problems. Congressional direction is needed in this area. For example, control of combined sewer overflows and urban runoff is not currently being adequately addressed, yet this is an increasingly significant source of waterway pollution, recognized in many areawide 208 plans. Nonstructural, low-cost methods of controlling overflows and runoff have been largely ignored. Likewise, the validity of funding multi-purpose projects under the 201 program has not been resolved. The national interest in energy production might be served by funding multi-purpose plants for cogeneration of energy; local water supply shortages might be alleviated by recycling of treated water.

- Priority lists of projects. While NLC supports the current CWA provision allowing states to determine priorities for funding eligible projects, we have two concerns which Congress should consider: first, states frequently have not consulted adequately with local governments in establishing priority projects lists, and state-set priorities often are inconsistent with approved areawide water quality plans; and second, there may be a national interest, which should be reflected in the Act, in mandating a uniform priority in all states for projects which must meet schedules established under the enforceable requirements of the Act, or for projects which will meet comprehensive water quality needs for major population concentrations.

- Integration of Sections 201 and 208. We believe the areawide 208 planning process has been a success in many respects. But the program will soon be at a crossroads as the initial plans are completed and approved. EPA now seems to be steering the 208 agencies toward a demonstration program to control nonpoint source pollution. In our view, it is Congress' role to decide the future of the 208 program. Congress could continue the 208 role as a planning tool in order to update plans, complete the nonpoint source data base, oversee implementation, and maintain local involvement in the water program; in this case, the 201 program must be expanded to include nonpoint source control, as we suggested above. Or Congress could choose to make 208 an implementation program, perhaps focusing on nonpoint source control and innovative control methods and technologies; in this case, the 208 program would be complementary to the 201 point source program. Whatever course Congress chooses should provide for a more comprehensive and integrated approach to controlling point and nonpoint sources than is currently provided by the Clean Water Act or EPA's implementation of that law.
- Additional issues. Other areas of the water pollution abatement program that need attention from Congress include inadequate disposal of sewage sludge and state-EPA agreements to centralize water quality management. Local governments have serious concerns about the state-EPA agreements that cut across all environmental programs. The gradual centralization at the state level through these administrative agreements circumvents carefully constructed statutory processes for involving local officials and threatens to undercut local political

support for a number of federal environmental programs.

By providing a one-year reauthorization of expiring CWA sections, we believe the Subcommittee next year can conduct a thorough and integrated review of the issues above. NLC has been a decade-long supporter of the goals of the Clean Water Act and of the federal-state-local partnership to achieve those goals. We hope to provide the Subcommittee next year with the considered opinion of the nation's municipal officials on the issues we have raised.

New England Interstate Water Pollution Control Commission
607 BOYLSTON STREET • BOSTON • MASSACHUSETTS 02116

[illegible]

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April 21, 1980

Hon. Ray Roberts, Chairman
Water Resources Subcommittee
Committee on Public Works and Transportation
House of Representatives
Washington, D.C. 20515

Dear Mr. Roberts:

Reference is made to testimony which I presented during your hearing on March 12 relative to HR 6667. My testimony included a recommendation for an authorization of $100 to $120 million for Section 314 of the Clean Water Act of 1977. I noted the disparity between my recommendation and EPA's figure of $13.5 million and indicated I would verify our figure.

Information available to me indicates that Region I has requested a total of $1.9 million for Section 314 work for FY-81. As a result of the Five-Year Needs Assessment Study conducted by EPA in 1979, the agency should be able to provide you with the FY-81 national needs figure for this work. In the absence of these figures, I would recommend reauthorization of Section 314 at the $40 million level authorized for FY-80. This would allow the Congress the flexibility of appropriating funds at a level it considers adequate and consistent with the current economic situation. An authorization of $13.5 million, as recommended by EPA, could severely limit this flexibility.

In response to your final question as to what percentage of our streams in New England have been cleaned up, I find that, on the basis of the 1978 biennial report to Congress under Section 305(b) of the Clean Water Act, approximately 60 percent of our streams have achieved fishable, swimmable quality. Records indicate a general five percent annual improvement, therefore I would estimate that, as of now, 65 percent of our streams have been cleaned up.

Again, thank you for the opportunity of presenting our views before your Subcommittee. Having heard that you will be retiring from the Congress t[illegible] year, we also extend to you our best wishes for the future and our appreciation for the many courtesies you extended to the States during your years in the Congress.

Sincerely,

Alfred E. Peloquin
Alfred E. Peloquin
Executive Secretary

AEP:jpc

Association of State and Interstate Water Pollution Control Administrators

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Charles R. Jeter (SC), *President*
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PUBLIC WORKS AND TRANSPORTATION COMMITTEE

March 4, 1980

The Honorable Harold T. Johnson
U.S. House of Representatives
Committee on Public Works and Transportation
Washington, D.C. 20515

Dear Mr. Johnson:

As a representative of the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), I have been requested by Calvin K. Sudweeks, the 1978-79 ASIWPCA President, to transmit the Association's formal resolutions which were adopted by the entire membership during the past year.

The attached resolution, adopted by the Association at its Annual Meeting in Coeur d'Alene, Idaho, August 30, 1979, and reaffirmed during the Mid-Winter Meeting held in Washington, D.C., on January 24, 1980, clearly presents the position and sentiment of the States regarding the Congressional funding of the Clean Water Act.

The ASIWPCA appreciates what you and the members of your Committee have done concerning the nation's clean water program and we look forward to further communication and interaction with you in regards to these most important issues.

Sincerely,

Robbi J Savage

Robbi J. Savage

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Calvin K. Sudweeks (UT), *Past-President*

FUNDING OF THE CLEAN WATER ACT

RESOLUTION

Since many funding authorizations of the Clean Water Act are to expire in FY80, the ASIWPCA urges the Congress to immediately undertake an analysis of the funding requirements necessary to achieve the goals and objectives of the Clean Water Act.

The ASIWPCA further urges that the Congress, in its analysis, consider the impact of and need for the plethora of EPA rules, regulations and guidances relative to the attainment of the objectives of the Act within the time frame desired by the Congress.

The ASIWPCA also urges the Congress to appropriate funds for the various sections of the Act, at a level adequate to carry out those functions mandated by the Congress, as interpreted and extended by EPA regulations but within the time frames desired by the Congress.

RATIONALE

1) The Clean Water Act provides for the establishment of a State/EPA partnership in the water pollution control program.
2) Administration of the Clean Water Act is substantially manpower and funding resources oriented.
3) Costs of administering the program at State level continue to escalate because of inflation, statutory and regulatory requirements

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4) The uncertainties of funding levels on an annual basis make it nearly impossible to adequately plan for and maintain an adequate and stable labor force to comply with all of the requirements of the Act.

5) Certain requirements of the Act have been or will soon be satisfied while new requirements have developed resulting in needed adjustment of manpower and resource allocations.

6) EPA's interpretation of the intent of Congress relative to the provisions of the Clean Water Act has resulted in regulations and requirements which are of themselves resource intensive.

7) Set-asides such as for innovative/alternative technologies and basing grant on appropriation versus authorization levels create an imbalance and instability in the water pollution control program.

8) The Act, in total, has never been adequately funded to allow the States and the EPA to fully carry out the intent of Congress.

BACKGROUND

Authorizations under Sections 104(u), 106, 112, 208, 314 and 517 expire September 30, 1980, Section 207 on September 30, 1982 and 304 on September 30, 1983. Continued progress in water pollution abatement and control will require continuation of a Federal commitment and support at least for the near term. For construction grants alone, EPA assessments have shown that based on needs reported in the 1976 Needs Survey, Categories I-V, and based on a $4.5 billion appropriation, some States will require in excess of 30 years to satisfy identified needs.

With much 208 planning nearling completion, the Clean Water Act should provide for the funding of priority pollution control efforts, identified in 208 plans. Provisions should also be made for the completion of pollution abatement and control measures provided for under the various other sections of the Act.

Inflation is also severely impacting the effectiveness of the program because of the reduced purchasing power of the dollar. A recent study indicated that the EPA requested Section 106 appropriation of $48.73 million for FY81 has the purchasing power of $29 million in 1972 dollars.

Overall, a known and adequate level of funding for a given period of time would provide needed program stability and achievement of the objectives of the Act.

Calvin K Sudweeks

Calvin K. Sudweeks
ASIWPCA President, 1978-79

Voted and approved in Coeur d'Alene,
 Idaho, August 30, 1979
Reaffirmed on January 24, 1980.

PERDUE
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March 25, 1980

Committee on Public Works and Transportation
United States House of Representatives
Rayburn House Office Building
Room 2165
Washington, D. C. 20515

Dear Mr. ~~[illegible]~~ Roberts

In re: Subcommittee on Water Resources Hearing on HR 6667

Industrial Cost Recovery, on the surface, is a logical method of requiring reasonable payment by industry for services made available through construction of waste treatment works partially paid for by funds from the EPA Construction Grants Program. Interest free repayment of the industrial share is a further, apparent incentive. These inducements were, to our knowledge, provided to make connection to a Publicly Owned Treatment Works (POTW) attractive, and, thereby, reduce the number of point source dischargers into streams in order to enhance water quality by more effective, centralized treatment and control.

Our company has investigated, and is continuing to investigate, the feasibility, i.e., the cost effectiveness, of making such a connection for two separate facilities. On the one hand, we are currently operating a tertiary waste treatment plant and have the opportunity to connect to an existing POTW which is planning a major expansion. On the other hand, we are scheduled to construct a new broiler processing facility and have three principal choices for handling our waste material. They are:

1. Company treatment with ultimate land disposal.
2. Company treatment with discharge to a stream.
3. Pretreatment followed by discharge to a proposed POTW.

Our preliminary analysis favored connection to the municipal plant. Despite the fact that it is currently undergoing Advanced Secondary Treatment Review by EPA, we believe that receiving stream conditions would require better than secondary treatment. Although the operating authority levies a surcharge on BOD_5 and TSS for concentrations above 300 mg/l, our cost analysis indicates that the combined cost of these surcharge levies, routine O & M and ICR, when coupled with pretreatment at our own facility, still compares favorably with our current operating cost.

However, other factors cause us considerable concern. In particular, EPA has recently suggested that ammonia be placed on the list of toxic pollutants. Notwithstanding our belief that it is ludicrous to associate this naturally occurring material with such manmade compounds as acrylonitrile, dichloroethylene and hexachlorocyclohexane, we are not so short-sighted that we do not realize the implications to those industries which have been so unfortunate as to have already connected to a POTW. If ammonia is deemed toxic, there can be only two possible methods of dealing with it: (1) it must be removed at the industrial source, or (2) ultimately, by the POTW. If the former, technology will dictate that the meat industry provide tertiary treatment in order to discharge into a secondary municipal system. The other choice will lead to complete circumvention of current POTW policy; i.e., it will require all POTW's to upgrade to the tertiary level to remove ammonia.

It is obvious that paying for ammonia removal in the form of pretreatment, when coupled with ICR for the POTW's secondary treatment, will not be cost effective. It is even more obvious that ICR sharing of removal of ammonia by the POTW, regardless of source, will be at least as costly because of inherent delays in construction and the need to pay federal wage rates on EPA funded projects. Connection to a yet to be constructed facility, as in our second example, has even greater cost implications because of extended delays created by the numerous regulations and policy changes required and imposed by the EPA.

In summary, we do not disagree with the original intention of Congress with regard to ICR. If projects proceed in a timely fashion so as to preclude escalation of construction costs, and if reason prevailed in the toxicity program, our choice would be clear. However, from our vantage point, neither is the case. Our firm conceived, planned, designed, constructed and initiated operation of a 1.5 million gallon per day tertiary waste treatment facility in six months. We would judge that the average time required under the EPA program, for a similar facility, is five to eight years. In this situation, and with current inflation rates, ICR appears to be neither advantageous nor equitable.

The placement of ammonia on the toxic list will only serve to commit us to a program of continued treatment and point discharge. It would not make economic sense to treat to a point where our influent would serve only to dilute incoming POTW waste. We would be required to pay not only for the operation of our tertiary facility, but also for POTW operation and maintenance, amortization of local costs, and, finally, to pay back the federal share under ICR of an inflated public works program. Therefore, we suggest that a more timely and economic attainment of water quality goals will be achieved by deleting ICR from the EPA Construction Grants Program.

We trust it is understood that we felt unable to make a reasonable comment on the Industrial Cost Recovery Program without relating it to other EPA administrative and policy matters which impact on the issue at hand. The far-reaching implications of the additional cost to the consumer for agricultural products, and to the taxpayer for POTW modification relevant to the ammonia issue, will be the subject of further, more specific comment to the Environmental Protection Agency.

Sincerely,

Thomas R. Shelton
Senior Vice President
Poultry Products Division

TRS/bd

ATMI
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March 19, 1980

The Honorable Ray Roberts
Chairman
Subcommittee on Water Resources
Committee on Public Works and
Transportation
U.S. House of Representatives
Washington, D.C. 20515

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PUBLIC WORKS AND TRANSPORTATION COMMITTEE

Dear Mr. Chairman:

We would appreciate having this letter included in the record of hearings on reauthorization for the Clean Water Act, H.R. 6667. This bill would also abolish the industrial cost recovery program. ATMI believes the ICR program as currently administered has failed to achieve its stated goals and should be abolished.

ATMI is the central trade association of the U.S. textile mill products industry representing some 80% of the domestic capacity for spinning, weaving, knitting, and finishing textile products of cotton, wool, man-made fibers, and silk.

There are approximately 6,000 textile plants in this country of which 2,000 are wet processers. Of these, approximately 1,500 plants discharge to publicly owned treatment works and are therefore directly impacted by the ICR program. ATMI has consistently supported the position that there should be parity in wastewater treatment costs between direct and indirect dischargers.

After review of the Coopers and Lybrand report, it is ATMI's position that ICR has failed to achieve its legislative purposes. ICR, as currently administered, fails to control excess plant capacity, provide greater water conservation, or increase municipal self sufficiency. In addition, the revenues generated have been off-set by the administrative costs.

While Congress recognized the benefits of joint treatment to promote economics of scale and avoid duplicative treatment systems, ICR instead encourages the construction of individual treatment works. It is also expected that when Federal pretreatment requirements are finally implemented the cost of pretreatment will increase and provide a greater incentive for independent treatment. However, many plants will not be able to take advantage of a separate treatment system, because they are limited by the physical location of the plant, or lack the necessary capital. Thus, ICR creates inequities for industries which must tie-in to a publicly owned system.

AMI therefore recommends that the current ICR program be abolished. We appreciate this opportunity to present our views and hope you find them helpful.

Sincerely,

W. Ray Shockley
Executive Vice President

WRS/mvh

Written Statement of the
Tanners' Council of America, Inc.

Congress' decision whether to continue the industrial cost recovery (ICR) provisions of the Clean Water Act must take into account the fact that the future of joint municipal/industrial wastewater treatment is today in great jeopardy. The Environmental Protection Agency's (EPA's) ICR report concluded that "for some medium and large industries .... it is ~~more~~ less expensive in the long run to self-treat than to pay user charges and the local debt service." More and more companies are becoming aware of this fact and deciding to self-treat wherever possible.

The growing disparity between the costs of self-treatment and POTW treatment can be documented in the leather tanning and finishing industry. Several companies can compare the cost of self-treatment and POTW treatment by calculating the total treatment costs for their plants that discharge into POTWs with the costs for their plants which discharge into surface waters. In a number of cases, costs for the indirect discharger plant far exceed the costs of the direct discharge plant. The Armira Corporation projected 1981 total treatment costs for two of its plants. One discharges into a POTW, while the second discharges into surface water. The combined user and ICR costs were more than double the total treatment costs of the direct discharger. The projected 1981 ICR payment was $96,276 as opposed to a total annual self-treatment cost of $372,734. Faced with these kinds of cost disparities, industries will choose to self-treat whenever possible.

The high costs of joining a POTW system penalizes older urban areas by forcing new industries to locate in suburban or rural areas. In his October 1970 testimony before the EPA, Mayor Angelo J. Errichetti, Mayor of the city of Camden, New Jersey, urged the repeal of ICR primarily because of the adverse economic impact that ICR and user charges were having on urban areas such as Camden. The nation's inner cities and the poor pay the price of the ICR penalty.

ICR contributes to the prohibitive costs of joint treatment and stands as an obstacle to attainment of one of the primary goals of the 1972 Federal Water Pollution Control Act. If Congress continues to adhere to its goal of encouraging joint municipal/industrial treatment, it must take steps now to make joint treatment attractive to industry. The repeal of ICR would not only reduce the costs of joint treatment, but would also be a signal to the business community that Congress will continue to support joint treatment in publicly-owned treatment works.

In 1972, Congress was concerned that without ICR, the federal construction grant program would provide a federal "subsidy" to industries that discharge into publicly-owned treatment works. However, changes in the tax laws since 1972 have eliminated the "subsidy" problem. The accelerated depreciation, investment tax credit and industrial development bond provisions for the Internal Revenue Code provide significant tax advantages to plants that self-treat. Elimination of ICR is needed to provide some equity for indirect dischargers to balance the advantages Congress has given to direct dischargers in the Internal Revenue Code.

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There is a second aspect of the "subsidy" question which EPA's ICR study, and its March 12, 1980 testimony, did not even acknowledge. Industry is a primary source of capital for the local share of a federal grant project and for all the capital in nongrant eligible projects. In many cases, industry is required to pay a portion of capital expenses for projects, extensions and rehabilitation programs which are of no benefit to the individual discharger.

For example, the Milwaukee Metropolitan Sewage District has undertaken a $1.6 billion program to upgrade, rehabilitate and extend its sewage treatment. At this time it appears that industries that discharge into the system will be required to pay $1 billion of the $1.26 billion local capital share of the project and would, if ICR continues, also be required to pay an additional $200 million under ICR. Few of the affected industries will benefit directly from the improvement program.

These payments would be in addition to industry's existing obligation to pay a portion of the capital costs and debt service of existing facilities and their $12 million in annual user fees. While figures from other POTW systems may not be as dramatic as these, it is clear that in many cases industry is paying more than its "fair share" of POTW local capital costs. EPA has not documented that ICR is necessary to ensure that industry pays its fair share of capital costs of POTW systems.

Retention of ICR cannot be justified on the basis that it would provide significant revenues for local jurisdictions or the federal government.

First, EPA's ICR study concluded that if federal construction grants totaled $45 billion, local jurisdictions would receive between $0.4 and $0.8 billion through ICR. This is considerably less than the $4.5 billion to $7.0 billion that had been estimated in 1972. Administrative costs over the thirty-year life of the ICR program will continue to rise and in many instances exceed the revenue derived from ICR. A study of the Metropolitan Denver Sewage Disposal District concluded that in the first ten-years of ICR the costs of administering the program would be about 80% of the revenues derived. (A copy of this study is attached.) ICR will be at most a minor source of revenue for local jurisdictions.

Nor will the federal treasury profit from ICR. One-half of all ICR payments will be returned to the federal treasury. In most cases, competition will force companies to take ICR payments out of corporate profits. If these monies were not expended as an ICR payment, they would be subject to the 48% corporate income tax. Thus, the federal government would recover almost as much through the income tax system if ICR were repealed, as it would through ICR if it is retained.

On March 12, 1980, Eckardt C. Beck, Assistant Administrator for Water and Waste Management at EPA, presented EPA's views on ICR in testimony before this Subcommittee. Incredibly, more than two years after Congress requested that EPA undertake a full study of ICR, the agency could only report its "preliminary thoughts" on the subject. The agency's testimony ignores the facts that were revealed in its published ICR study and attempts to justify its suggestions by misstating facts and confusing issues.

EPA's testimony suggests that ICR provides "some degree of subsidy" to indirect dischargers. The facts belie this assertion.

EPA claims that indirect dischargers: (1) are "relieved of the financial burden of raising capital for development of plants and facilities not directly related to increased production", (2) do not bear the full interest costs for construction capital and (3) are spared the management, administrative, and legal costs associated with operation and maintenance of a treatment system and from the requirements of monitoring and reporting. If this was the case industry would not be before the Subcommittee today requesting that ICR be abolished.

In fact, industry incurs substantial capital, interest, operation and maintenance, monitoring, reporting, and administrative costs as a participant in the POTW system. As the data cited above in regard to the Milwaukee POTW system clearly demonstrates, at times industry incurs substantial capital and interest expenses in association with the POTW system. Operation and maintenance costs are paid in the user fee each company pays annually to the POTW. Many indirect sources are required to monitor wastes and report the findings to the POTW.

In addition, EPA has proposed to require stringent pretreatment by leather tanning and finishing plants that discharge into POTWs. The Tanners' Council has calculated that between 1/4 and 1/2 of all the existing leather tanning and finishing plants could not afford to meet the proposed pretreatment standards and will be forced to close if EPA promulgates the proposed pretreatment standards.

Thus, EPA's assertion that indirect sources are relieved of many of the costs experienced by direct sources is simply wrong.

Fair examination of the facts reveals that there is no federal subsidy to indirect dischargers. To the contrary, because of the tax advantage to only direct dischargers and the heavy costs incurred by indirect sources, the federal government has made POTW treatment more expensive for indirect sources than self-treatment in many cases.

EPA's testimony also defends continuation of ICR on the basis that ICR payments will provide local jurisdictions with a pool of earmarked funds. EPA envisions an ICR program which requires each POTW to establish an earmarked fund to finance the construction of new treatment facilities. The Tanners' Council is opposed to the concept of establishing this type of sinking fund for a number of reasons.

First, EPA's ICR report concluded that ICR would not generate sufficient funds in most situations to reconstruct treatment works after 30 years. Therefore, the ICR will not replace local bonding authority for federal construction grants and loans as a primary mechanism for financing future construction.

Second, while it would not replace other sources of funding for new sources, the existence of a sinking fund will inhibit the introduction of new and innovative technologies. Instead of replacing old and worn out systems with a newer innovative treatment system, local jurisdictions will use EPA's sinking fund to continually rehabilitate the old system. The Tanners' Council favors using local bonding authority to finance POTW construction in part because it will force communities to evaluate the type of treatment to be installed. This ability to switch treatment systems will encourage the development of new and innovative technology.

Third, EPA's sinking fund approach does not guarantee that funds will be available in communities where they are needed. EPA's suggestion assumes that new growth and development will occur in locations where POTWs now exist. Any system designed merely to generate capital for future developments must include a mechanism for ensuring that funds will be available to communities whose needs are greatest. ICR does not include such a mechanism.

Fourth, businesses are forced by competition to identify the most cost-effective means for financing capital construction. There is probably not a single major business enterprise in the country that sets money aside in years 1 through 9 to finance a capital project which may or may not be built in year 10. Nonetheless, EPA is suggesting that Congress retain just this kind of costly, ineffective financing scheme.

Industry has found that the cost-effective way to finance capital projects is to wait until the need for a specific project is established and, only then, enter the money market to raise capital to finance the construction. We believe that Congress should follow this example. The most cost-effective means for financing capital projects in the public sector is through reliance on local bonding authority. Future

POTW construction should rely on local bonding authority rather than EPA's misguided notion of an ICR based sinking fund.

Fifth, EPA's sinking fund proposal will tie up in an essentially nonproductive use funds that otherwise would be used to expand production facilities or increase productivity. This nation's failure to expand and modernize its production facilities and thereby increase productivity lies at the root of the inflation problem we face today. Continuation of ICR, as EPA has suggested, will only further aggravate these problems and feed the fires of inflation.

Sixth, it is both logical and fair to require industries that use a POTW to pay a portion of the capital costs of the facility. However, EPA's sinking fund proposal would require industry to pay the capital costs a of POTW to be built in the future which they may or may not use. Such a system would also force existing industries to subsidize a new industry entering a POTW built with ICR generated capital funds. Reliance on debt financing of POTW construction, as TCA advocates, with beneficiaries paying debt service over the life of the works, relates user benefits to system costs very well.

Seventh, an accumulation of funds as suggested by the EPA can only lead to wasteful spending on unneeded additions, make-work projects, and election-year boondoggles. The funds would be "free money" which begs to be spent by local jurisdictions. Voter approval of bond initiatives forces the local officials to examine the need for, and design of, a proposed project. EPA's sinking fund would relieve local officials from the necessity of being concerned about justifying a project to the voters. It is, therefore, an invitation to wasteful spending.

TCA believes that an examination of real world facts concerning ICR leads to only one conclusion -- ICR should be repealed. ICR will not benefit local jurisdictions, the federal government, industry or the environment. It will contribute to the demise of joint municipal/industrial POTW treatment and thereby increase the financial burdens of residential users of POTWs and increase the cost to all levels of government for permitting, monitering and otherwise regulating an increasing number of direct dischargers.

The ICR provisions of the Clean Water Act should be repealed through enactment of section 2 of H.R. 6667.

Industrial Cost Recovery Provisions of P.L.92-500 In Denver

The unsuccessful attempt of the Metropolitan Denver Sewage Disposal District No. 1 to implement industrial cost recovery requirements of federal legislation

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Based on a paper presented at the 1976 International Public Works Congress and Equipment Show

Efforts to develop an acceptable industrial cost recovery system for the Metro Denver District which serves 1.1 million persons started in 1972 immediately after P.L. 92-500 became law. Efforts to establish such a system had already commenced under the old Federal Water Pollution Control Act for the local share of construction costs, but virtually no progress had been made.

Although nobody associated with the Metro Denver District could support industrial cost recovery philosophically or morally, action proceeded toward the development of an acceptable system for the district.

During 1973 and 1974, the Metro District conducted an industrial survey of the 21 member municipalities to determine the industries connected through their systems into the Metro District system, the types of industry, and the amounts and strengths of wastewater flows. Several rough drafts of an industrial cost-recovery system were prepared during this period for review by Metro District directors and personnel of the member municipalities. Efforts were made to secure guidance from the Environmental Protection Agency as to specific details which would be required in this system. Numerous personal contacts were made with member municipality officials to explain the need for the industrial cost recovery and the proposed major features of that system.

In 1975, the EPA regional office tentatively approved proposed Section 6 of the Metro Denver District Rules and Regulations which contained the proposed industrial cost recovery system. A reluctance on the part of the City and County of Denver to support this system resulted in the formation of a special Metro District committee to revise the proposed Section 6 to satisfy Denver officials. This committee helped develop a revised system for which approval was then requested from the EPA Regional Office.

On April 20, 1976, the Metro District Board of Directors adopted a resolution incorporating Section 6, Industrial Cost Recovery System, into the Metro District Rules and Regulations.

A request went to the 21 member municipality governing bodies on April 26, 1976, requesting that they adopt a resolution committing themselves to the Section 6 Rules and Regulations provisions.

As of August 4, 1976, 13 of the 21 Metro District member municipality governing bodies had adopted resolutions accepting the industrial cost recovery system. A letter from the City and County of Denver indicated that these provisions would be incorporated into the appropriate wastewater ordinances of the City and County of Denver.

In addition to compliance by Metro District member municipalities, it will be necessary for more than 40 sanita-

FIG. 1 METRO DENVER SEWAGE DISPOSAL DISTRICT
Construction Projects Included in
Industrial Cost Recovery System (1977-1986)

Approximately 10% of flow comes from industry throughout Metro District

1. Central Treatment Plant Expansion (Primary and Secondary Treatment Facilities)
    - Federal Grant on Primaries – $5,000,000 (5% ICR)
    - ICR Annual Charge = $8,420 (start in 1977)
2. Central Treatment Plant Anaerobic Digesters
    - Federal Grant – $4,576,000 (10% ICR)
    - ICR Annual Charge = $15,250 (start in 1978)
3. Platte River II Interceptor (Metro Central Plant to Denver North Side Plant)
    - Federal Grant – $1,450,000 (5% ICR)
    - ICR Annual Charge = $2,410 (start in 1978)
4. Platte River II Interceptor (Alameda to 47th Avenue)
    - Federal Grant – $9,530,000 (2% ICR)
    - ICR Annual Charge = $6,340 (start in 1978)
5. Solids Reuse Facilities
    - Federal Grant – $14,200,000 (10% ICR)
    - ICR Annual Charge = $47,350 (start in 1979)
6. Lower South Platte Plant and Interceptor
    - Federal Grant – $8,170,000 (1% ICR)
    - ICR Annual Charge = $2,710 (start in 1981)
7. Clear Creek Interceptor
    - Federal Grant – $4,170,000 (1% ICR)
    - ICR Annual Charge = $1,620 (start in 1981)
8. Sand Creek Interceptor Federal Grant – $4,480,000 (1% ICR)
    - ICR Annual Charge = $1,500 (start in 1981)
9. Weir Gulch Interceptor
    - Federal Grant – $940,000 (0% ICR)
10. Central Treatment Plant Phase II Expansion (SWT)
    - Federal Grant – $30,000,000 (10% ICR)
    - ICR Annual Charge = $100,000 (start in 1985)

tion districts served by Metro District member municipalities to take formal action to commit themselves to the Metro District industrial cost recovery system. This is not an insurmountable problem; but compliance by these other agencies will take time. Considerable delay and difficulty in implementation are anticipated.

An example of the counter-productive nature of industrial cost recovery is illustrated in Figure 1 and Figure 2. Figure 1 lists the Metro Denver District construction projects hoped to be completed in the period, 1976-1985. The annual industrial charges for each project are based on the estimated portion of facilities capacity which would be used by industry and also based on a 30-year payment by all appropriate industries for each project. These assumptions may not be completely accurate, but they serve to indicate fairly accurately the estimated charges to industry for the specific projects.

Figure 2 illustrates the undesirable fact that over a 10-year period the cost of administering the industrial cost-recovery program will be about 80% of the amount of money taken from industry for these charges. The 5% per year increase in administrative cost represents estimated inflation increases only, with no increase in activity anticipated. Administrative costs include sampling and analyses of industrial wastes for industrial cost recovery purposes by member municipalities as well as the Metro Denver District.

In summary, the Metro Denver District has, since November 1972, moved forward as expeditiously as possible, but is still several member municipality resolutions and more than 40 such resolutions by sanitation districts away from implementation of the industrial cost-recovery provisions of the federal act. It is obvious that the high cost of collecting the industrial charges will be terribly out of proportion to the funds recovered from industry. Thus, the total impact on local citizens is an increase in sewer service charges to finance additional administrative costs plus the additional cost of the products of industry caused by industrial cost recovery. Even though, we cannot justify the high costs of the required industrial system, the Metro Denver District will continue to pursue vigorously the tasks remaining in our efforts to implement the industrial cost-recovery provisions of the federal act. ☐

FIG. 2 METRO DENVER SEWAGE DISPOSAL DISTRICT No. 1
Industrial Cost Recovery Charges and Administrative Costs (1977-1986)

Year	Annual		Cumulative	
	Administrative Cost (5% increase/year)	ICR Charges	Administrative Cost	ICR Charges
Prior to 1977	$75,000		$ 75,000	
1977	50,000	$ 8,420	125,000	$ 8,420
1978	52,500	32,420	177,500	40,840
1979	55,000	79,770	232,500	120,610
1980	57,700	79,770	290,200	200,380
1981	60,500	85,600	350,700	285,980
1982	63,500	85,600	414,200	371,580
1983	66,600	85,600	480,800	457,180
1984	70,000	85,600	550,800	542,780
1985	73,500	185,600	624,300	728,380
1986	77,000	185,600	701,300	913,980

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STATEMENT OF
TUNA RESEARCH FOUNDATION
BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES OF THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION ON H.R. 6667

This statement is submitted by the Tuna Research Foundation (TRF), a non-profit association whose members pack over 90 percent of the canned tuna processed in the United States, its territories, and possessions.

TRF strongly endorses Section 2 of H.R. 6667, which abolishes the industrial cost recovery (ICR) provisions of the Clean Water Act.

The Congressional purposes in the establishment of ICR are not being met, largely because of circumstances that were not foreseeable at the time of passage of the Federal Water Pollution Control Act of 1972. The implementation of ICR will place industrial users of publicly-owned treatment works (POTWs), including members of TRF, at a competitive disadvantage as compared with industrial facilities that self-treat their waste waters. As a result, ICR will reduce industrial participation in POTWs. In addition, ICR constitutes an unfair penalty on industrial users.

The members of the Tuna Research Foundation wish to stress that they are not opposed to fair user charges for all POTW users for operation and maintenance costs and local debt service. Further, the repeal of ICR will only affect repayment of the federal grants used to construct POTWs. Repeal will not affect the capacity, treatment efficiency or any other aspect of treatment of POTWs. This position is set forth more fully below.

Imposition Of The ICR Charge Will Place POTW Participants At A Competitive Disadvantage Compared To Industrial Facilities That Self-Treat.

The Senate Report accompanying the Federal Water Pollution Control Act Amendments of 1972 suggests that if industrial users do not pay a proportionate share of POTW construction costs, they will, in effect, be receiving a federal subsidy and will have a competitive advantage over plants that self-treat their waste waters. In fact, the opposite has become true. Industrial users of POTWs are frequently at a competitive disadvantage compared to plants that self-treat because of the high costs of participating in POTW systems.

These higher-than-expected costs are based on three main factors: (1) POTWs generally cost more to construct than equivalent industrial facilities, partly because POTWs must provide sophisticated treatment for a variety of industrial wastes, while industrial facilities, especially for food processing wastes, can be of a simpler design. (2) Recent changes in tax laws make it less expensive for industry to provide direct treatment of its waste water. These changes include changes in the tax laws which provide for accelerated depreciation of pollution control equipment, investment tax credits for capital expenditures, and the availability of tax-free industrial development bonds to finance self-treatment facilities. (3) The administrative costs associated with the operation of POTWs far exceed those for industrial plants that self-treat.

While TRF believes that the EPA underestimated ICR charges when it concluded these charges would constitute 10-15 percent of the sewer-use charges, even that underestimation is a significant burden in light of the fact that industrial users of POTW facilities are already paying more than plants that self-treat.

For existing plants, the decision to use POTW facilities or to self-treat is often dictated by the lack of space available to construct a self-treatment facility. In addition, long-term capital commitments have often been made, locking companies into continued use of POTWs. Because companies cannot freely change from POTW use to self-treatment, it is important that cost parity between the two methods be maintained.

The cost differential between the two treatment methods that already exists will be magnified if ICR is implemented. Plants that cannot switch to self-treatment (such as plants in urban areas) will become increasingly unable to compete with those that can make the transition. Those plants that can switch to self-treatment will do so and, as more plants self-treat, many of the benefits of the entire POTW program, such as economies of scale, will be lost.

Creating A Self-Sustaining POTW System

Among the legislative purposes of ICR was the creation of a fund for municipalities to finance reconstruction of POTWs as they reached the end of their useful life. However, in a report that the EPA contracted with Coopers & Lybrand, Coopers & Lybrand concluded that ICR funds would not "significantly contribute towards the grantee's capability to finance future expansion, upgrading or replacement of waste-water treatment works." S. Report No. 96-200, p. 3. This same report concluded that of the nearly $45 billion Federal investment in pollution control facilities, only $1.8 billion would be collected from ICR, of which less than $1 billion would be returned to the Federal Treasury. Id. at 4.

Not only is ICR ineffective as a replacement fund, but it is, in principle, unfair. Users pay simultaneously for both original and replacement facilities, yet a company that has paid into an ICR reserve fund may have moved away when the fund is actually needed. Thus, a company joining the POTW system later will reap the benefit of an earlier company's contributions while the earlier company receives no benefit.

There is no reason that POTWs should not be financed like other public utilities, which charge users according to the real cost of service. Under that system of financing, users pay off bonds at the same time that they pay current operating charges.

Overall, we agree with the four conclusions of the Coopers & Lybrand report, a report that the EPA has said resulted from a "study conducted with the fullest public participation achieved to date by EPA in any major study":

> (1) Industrial cost recovery funds returned to the grantee do not significantly contribute towards the grantee's capability to finance future expansion, upgrading or replacement of waste-water treatment works; (2) changes in the tax law and Internal Revenue Service regulations since 1972 have decreased the extent to which the construction grants program is likely to be used as a subsidy to industries utilizing publicly-owned treatment works; (3) that the

> substantial water conservation which has occurred among industrial users since the 1972 law was enacted is due to the proportionate user charge, rather than industrial cost recovery; and (4) industrial cost recovery has had little apparent influence on industries' decisions regarding industrial capacity in a treatment works.

We endorse Section 2 of H.R. 6667 and ask that this statement be made a part of the public record.

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A STATEMENT ON BEHALF OF THE U.S. BREWERS ASSOCIATION
IN SUPPORT OF H.R. 6667

This statement is filed on behalf of the U.S. Brewers Association in support of H.R. 6667 and urges the repeal of the ICR.

The USBA is a non-profit trade association of brewers representing approximately 75% of U.S. malt beverage production and other member companies engaged in all phases of the production of malt beverages. Our members employ almost 40,000 persons directly, and over 500,000 persons in the United States are involved in beer production and distribution and related industries. Overall, the making of malt beverages in the U.S. is a seven and a half billion dollar industry. The American brewing industry contributed a record two and a half billion dollars in local, state, and federal taxes in 1979.

The United States Brewers Association and its members strongly urge this Committee and Congress to support H.R. 6667 and to repeal the industrial cost recovery provisions of P.L. 92-500 and P.L. 95-217. Briefly, the reasons we offer for this position are: (1) industrial cost recovery (ICR) does not meet the legislative intent of the Federal Water Pollution Control Act Amendments; (2) ICR represents a system of double payment, which results in an unwarranted burden on industrial users of publicly-owned treatment works; and (3) many industries can be expected to fail, at least in part due to the added burden of ICR which falls disproportionately on those industrial members least able to pay the added cost of improving older municipal waste treatment plants.

According to the legislative history of the industrial cost recovery provisions of the Federal Water Pollution Control Act Amendments, Section 204 was intended to achieve parity, capacity, water conservation, and self-sufficiency. That ICR provisions of the Act have not met legislative intent has been well documented in Report to Congress, Industrial Cost Recovery, December, 1978, by Coopers & Lybrand, the EPA's consultant. In fact, EPA Administrator Costle's letter transmitting the report pointed out that "based on the data available, the study concludes that the ICR provisions of 204(b)(1) of the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) are not effective in accomplishing their legislative purposes."

Coopers & Lybrand point out that four basic ideas are contained in the legislative history as goals which ICR was to achieve.

- Parity is the equalizing of the assumed economic advantage (namely, less expensive sewage treatment costs) for those industries using public sewage systems, as opposed to those industries treating their own sewage and discharging it directly.

- Capacity is the appropriate sizing of wastewater treatment plants with adequate but not excess future capacity. ICR was one of the several tools available to assure the proper planning of grant-funded wastewater facilities.

- Water conservation.

- Self-sufficiency is the retention of 40% of the ICR payments by the grantee for future expansion and upgrading of their wastewater treatment works.

During the debates in April and June, 1979, on the merits of extending the moratorium on ICR collections, additional evidence was introduced to illustrate the manner in which these four criteria were not met. At the same time, the Congress called for additional studies to further substantiate the Coopers & Lybrand findings.

The United States Brewers Association has surveyed the recent history and experience of its members in order to provide this Committee with the most up-to-date and solid information concerning the question of parity. Our intent was to determine whether brewer members using a municipal treatment plant were obtaining a "free ride," or if, as a result of changes in tax law, it was more economical for a member to self-treat its wastewater discharge. In order to make accurate comparisons, a detailed questionnaire was provided members and a model developed in which the cost to a brewer participating in a municipal treatment facility with ICR is compared with the cost for a similar size brewery which chose to build its own treatment works.

The results of the USBA survey assumed a new brewery of eight million barrels per year capacity. Extrapolation from survey data indicates that such a facility would need a treatment plant costing $22.6 million. Depreciation and other assumptions are as follows:

(1)

Depreciation Category	Depreciation Amount	Depreciable Life	Method of Depreciation
Machinery & Equipment	$ 9.04MM	8 years	200% DB/SYD
Building	3.39MM	40 years	150% DB/SL
Site Improvement	10.17MM	20 years	150% DB/SL

(2) 10% Investment Tax Credit on machinery and equipment.

(3) The treatment facility would be financed with Industrial Revenue Bonds with following terms: 30-year maturity, 9% interest rate; annual interest payments; principal repaid in a lump sum after the 30-year term.

(4) Operating and maintenance costs are estimated at $1.6 million per year and have been escalated at a 10% annual rate.

(5) The residual value of the facility after 30 years of use is 30% of its original cost.

(6) A 48% brewer tax rate.

According to the survey, an eight million barrel brewery participating in a publicly-owned treatment works (POTW) would have captured costs allocated to it of $27.1 million. In such a circumstance, there would be no depreciation benefit to the brewery, and investment tax credits could not be obtained by the brewery. This figure also assumes that the municipal project would be financed 70% by federal grant funds repaid at 30 equal annual payments at 0% interest rate, and the remaining 30% by municipal revenue bonds at 9% interest with 30 equal annual payments. The allocated operation and maintenance costs are assumed to be $1.9 million per year, escalating at 10% annually. The annual payment by the brewery consists of operating and maintenance costs, industrial revenue bonds, and repayment of federal government grants for total of $3.32 million. Two further assumptions made were that the annual brewery payment is tax deductible and that the brewery pays a 48% tax rate. Bearing these considerations in mind, the additional cost to the brewer for discharging to a POTW vs. self-treating is $6,511,200.

Some of the reasons for the difference in the costs of going to a POTW and self-treating are that self-treatment facilities are tailored to the waste being treated and that industrial users will insure their treatment works are staffed only at a needed level and are functional in design. POTW's, on the other hand, are of necessity designed to handle domestic wastes and many other pollutants from a wide variety of industries. In addition, POTW's often must be sized to handle large amounts of infiltration and inflow and combined sewer overflow whereas a self-treating facility designed specifically for brewery wastes would treat a concentrated waste without extraneous water. Municipalities offered the "carrot" of a federal grant often over-design POTW's with substantial excess capacity intended to accomodate future growth, which may or may not take place. The additional costs associated with the over capacity built into POTW's is borne by those industrial users unfortunate enough to be required to participate in the system.

A second compelling and perhaps the most important objection which the USBA has to the ICR system stems from our observation that our industry already annually pays in excess of one and one-half billion dollars in excise taxes to the federal treasury. Under the industrial cost recovery system, based upon the survey data developed by us, the industry would be required to pay an aggregate additional $300 million to various municipalities receiving federal grants over 30 years.

Rather than providing a federal subsidy to private industry, especially those situated so as to make use of POTW's, the ICR system causes exactly the reverse situation to exist, namely an unwarranted double charge upon dischargers of compatible wastes. The disparity can only be expected to increase as inflation escalates the costs involved in administering the program.

Coopers & Lybrand pointed out that there had been at the time of their report few instances of economic dislocation or plant closings as a result of ICR. This is the case in the brewing industry only because ICR charges have not been implemented generally. However, if one extends the parity reasoning outlined above, particularly as it relates to small or marginal brewers and malting plants, detectable trends may be apparent. Small brewers may be unable to raise the necessary capital to finance their own treatment facilities, and the reality of plant closings, dislocation, and the related economic hardship may be expected to occur if ICR is implemented. Consideration of historical trends in the brewing industry is instructive in addressing this possibility.

According to records compiled by the Treasury's Bureau of Alcohol, Tobacco and Firearms, in 1935 there were 750 breweries in the United States. Since that time the number of brewing companies has declined to 40, operating 79 plants. Decline in the number of breweries doing business has been steady over the years, and among the reasons for the decline is that small brewers are often unable to build modern, efficient plants and, therefore, cannot produce malt beverages as cheaply as larger operations. Small brewers are encumbered by the high cost of distribution and are hard pressed to provide a product at a competitive price with larger companies. The inflation experienced in agricultural and packaging costs has added to the profit squeeze and accelerated the demise of the small brewer. Add to this already heavy burden the inequitable costs of ICR payments, and one can easily foresee even more plant closings.

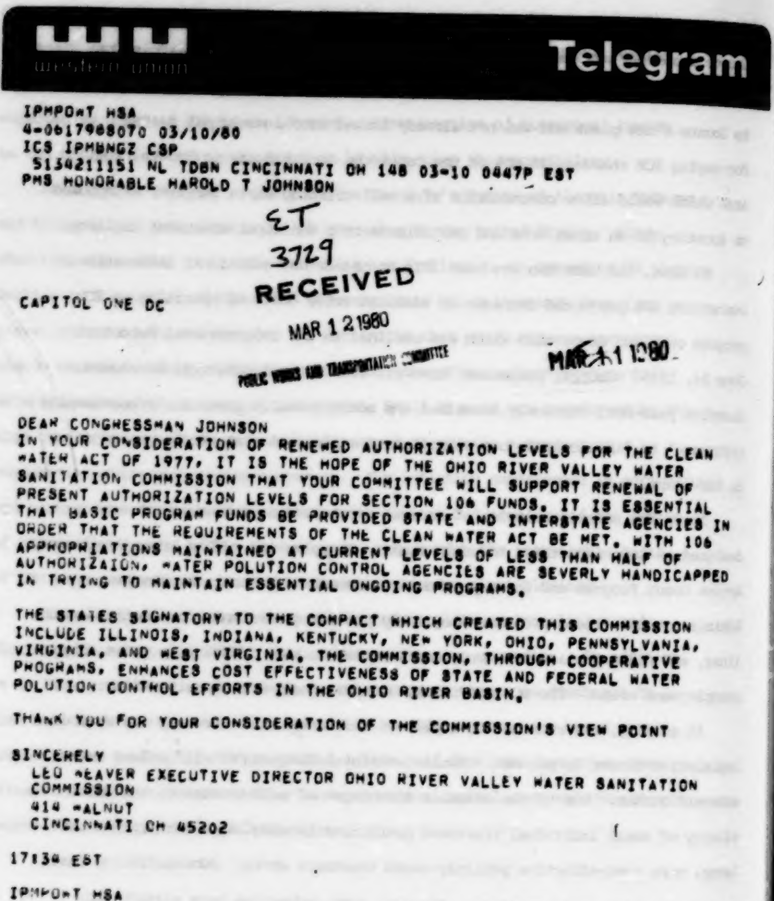
Often small brewing companies are located in older municipalities and discharge to antiquated POTW's which require extensive upgrading. In addition, it is likely that the brewing company will represent the major discharge to that municipal system. As a consequence, since ICR payments are based upon proportionate loading of BOD, suspended solids, and flow, the brewer in that situation will be the most heavily impacted by the capital cost recovery system required to upgrade the municipal plant.

There are no instances in the brewing industry where a decision to locate a brewery was based solely on ICR. However, it is important to note that since the passage of P.L. 92-500, where a brewing company had the option to locate a new plant and was not already locked into a municipal system for paying ICR charges, in 80% of the cases the decision was to locate in an area which would allow construction of a self-treating waste facility as opposed to locating in an urban area and participate in a municipal treatment facility.

To date, the USBA has not been able to gather any additional information concerning the projected increase in administrative costs of operating an ICR program over and above that which was outlined in the Congressional Record of June 14, 1979. General responses, however, from several municipal or sewerage district personnel variously described the administrative costs as "a bookkeeping nightmare" to "incalculable but significant" additional costs to be passed on to the users.

There are several examples of federal grant-in-aid programs which are designed to keep industries in urban areas. Examples are, HUD's Urban Development Action Grant Program and the Department of Commerce's Economic Development Administration. These programs frequently provide grant funds for sewers, water lines, and other public works programs in order to keep industry in urban, high unemployment areas. The ICR provisions have precisely the opposite effect.

In summary, the reasons for repeal of industrial cost recovery are obvious. Legislative intent is not met. Small industrial dischargers will endure severe economic burden. Due to the economic advantages of self-treatment, the multiplicity of small individual treatment operations is encouraged rather than the large, more cost-effective publicly-owned treatment works. Administrative costs of municipalities will escalate. Finally, most industries have already paid to the federal treasury the funds which should be used to upgrade publicly-owned treatment works to achieve the stated goals of the 1972 and 1977 Federal Water Pollution Control Act Amendments. For all these reasons, the USBA urges repeal of the industrial cost recovery system.



Telegram

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4-0617968070 03/10/80
ICS IPMBNGZ CSP
5134211151 NL TDBN CINCINNATI OH 148 03-10 0447P EST
PMS HONORABLE HAROLD T JOHNSON

ET
3729

CAPITOL ONE DC

RECEIVED
MAR 12 1980
PUBLIC WORKS AND TRANSPORTATION COMMITTEE

MAR 11 1980

DEAR CONGRESSMAN JOHNSON
IN YOUR CONSIDERATION OF RENEWED AUTHORIZATION LEVELS FOR THE CLEAN WATER ACT OF 1977, IT IS THE HOPE OF THE OHIO RIVER VALLEY WATER SANITATION COMMISSION THAT YOUR COMMITTEE WILL SUPPORT RENEWAL OF PRESENT AUTHORIZATION LEVELS FOR SECTION 106 FUNDS, IT IS ESSENTIAL THAT BASIC PROGRAM FUNDS BE PROVIDED STATE AND INTERSTATE AGENCIES IN ORDER THAT THE REQUIREMENTS OF THE CLEAN WATER ACT BE MET, WITH 106 APPROPRIATIONS MAINTAINED AT CURRENT LEVELS OF LESS THAN HALF OF AUTHORIZAION, WATER POLUTION CONTROL AGENCIES ARE SEVERLY HANDICAPPED IN TRYING TO MAINTAIN ESSENTIAL ONGOING PROGRAMS,

THE STATES SIGNATORY TO THE COMPACT WHICH CREATED THIS COMMISSION INCLUDE ILLINOIS, INDIANA, KENTUCKY, NEW YORK, OHIO, PENNSYLVANIA, VIRGINIA, AND WEST VIRGINIA, THE COMMISSION, THROUGH COOPERATIVE PROGRAMS, ENHANCES COST EFFECTIVENESS OF STATE AND FEDERAL WATER POLUTION CONTROL EFFORTS IN THE OHIO RIVER BASIN,

THANK YOU FOR YOUR CONSIDERATION OF THE COMMISSION'S VIEW POINT

SINCERELY
LEO WEAVER EXECUTIVE DIRECTOR OHIO RIVER VALLEY WATER SANITATION COMMISSION
414 WALNUT
CINCINNATI OH 45202

17:34 EST

IPMPOMT HSA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 14 1980

OFFICE OF THE
ADMINISTRATOR

RECEIVED
MAR 17 1980
PUBLIC WORKS AND TRANSPORTATION COMMITTEE

Honorable Ray Roberts
Chairman, Subcommittee on
Water Resources
Committee on Public Works and
and Transportation
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

In accordance with Mr. Beck's testimony before the Subcommittee on March 12 concerning the reauthorization of the Clean Water Act, I am forwarding copies of the materials presented to the Senate Environment and Public Works Subcommittee on Environmental Pollution discussing the EPA proposed legislation, "The Integrated Environmental Assistance Act."

If there is anything further we can do, or any questions the Members have concerning this proposal, please let us know.

Sincerely yours,

Susanne L. Wellford
Susanne L. Wellford
Acting Director
Office of Legislation

Enclosure

STATEMENT OF
DOUGLAS M. COSTLE
ADMINISTRATOR
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
COMMITTEE ON ENVIRONMENT & PUBLIC WORKS
UNITED STATES SENATE
JANUARY 22, 1980

Good morning, Mr. Chairman and members of the Subcommittee. With me today is Bill Drayton, EPA's Assistant Administrator for Planning and Management, and Peter Berle, former Commissioner of New York State's Department of Environmental Conservation. Peter has been working with me on the development of this legislation for the last nine months.

It is a pleasure to be here today to discuss the Administration's proposal for a much-needed mechanism to deal more effectively with environmental problems: integrated environmental assistance. We look forward to doing our best to answer your questions once I complete this statement.

EPA was created to develop an environmental program, a coherent approach capable of solving a difficult and intertwined set of problems. But science, which ultimately drives our programs, has made it ever more apparent that we must "close the circle," that we must deal with the whole problem. Let me cite one example which represents a pattern I believe may force us to modify how we do our job over the coming decade. Lead is a pervasive pollutant: it comes from the land, through the waters, from food cans and pipes, and especially through the air. It is only one of thousands of pollutants we are exposed to in complex, unknown mixtures every day. I believe one part of our answer to lead -- to pollutants that do not respect our institutional boundaries -- must be effective integration across our environmental programs.

In the field, however, our programs must be implemented through separate, often uncoordinated categorical grants. Each categorical grant tends quickly to become a jealously guarded "turf" defined by the terms of the grants in both EPA's and the recipients' organizations. Traditionally these specialist branches have negotiated the terms of the coming year's grant chiefly with one another, submitting a thick document to their policy officials for ratification. This process makes cross-program collaboration difficult and trade-offs almost impossible. This familiar organizational pattern has been largely set in motion and is constantly reinforced by the numerous, different, and characteristically narrow requirements of our grants.

The problem has been getting worse. When EPA was formed, we had three State and local assistance program grants. After eight years of responding to newly understood problems one after another, we now have 16 separate categorical grant programs.

Over time the suborganizations each of these grants produces tend to become more comfortable and resistant to change. At HEW, this process is commonly described as "hardening of the categories."

Let me give you an example of the ill effects of this disease from my experience as Commissioner of Connecticut's environmental program. Soon after Connecticut established its new environmental agency, we found that we could not enforce the environmental laws at all effectively. Our legislature authorized us to design a new approach, one that would apply to all our programs and help unify them. Fine. But we needed $150,000 to hire the added staff to design our new regulations, to help us redesign our day-to-day enforcement, and to help our staff as they went through the inevitable start-up difficulties of a new approach.

Russ Train and his associates in Washington wanted EPA to help. But it took him well over a year to extract the funds from his organization. Since our proposal was a new enforcement approach for air and water and wetlands and solid waste, none of those separate organizations wanted to contribute. The story time after time was: "it sounds like a promising idea, but that's not what this grant is for." Had Russ finally not insisted on contributions from several categorical offices, the project probably never would have received funds.

As you know, this Committee was able to use one of the innovations this project demonstrated: the delayed compliance penalties you enacted in the 1977 Amendments to the Clean Air Act.

Our grant programs are extraordinarily important. Most, probably 85 percent, of the environmental regulators in the country are state, county, and local officials. How we structure these grants can seriously affect our combined ability to get the job done.

Our proposed bill, the Integrated Environmental Assistance Act, will reinforce that importance but will, at the same time, strengthen our environmental management. In particular, it will (1) foster innovation -- with more ideas like our enforcement project in Connecticut; (2) encourage integration -- by curing "hardening of the categories"; (3) elevate decision-making to the policy level both at EPA and by our grantees; (4) reduce duplicate reporting and paperwork, since one application will take the place of many; and (5) allow flexibility to fit resources with needs.

Integrated assistance would work simply. Each grantee that wanted to participate would prepare an integrated plan for whatever programs it wanted to cover. This plan would spell out how the previously separate pieces would be better fitted together. It could propose a shift of up to 20 percent of the funds currently allocated to any covered program to others or to new cross-cutting programs --

a common inspection section, a common laboratory, a common enforcement program.

EPA and the grantee would discuss those ideas during a joint planning process. The states, for example, would probably use the State/EPA Agreements that we have been developing over the last two years. Once EPA and the grantee agree on this plan, EPA would award the recipient a single grant covering whatever categorical grants (or portions) that were included in the plan. This grant would have one simple set of requirements.

For new approaches to problems, our grantees could apply for support from the supplementary assistance fund the act would authorize. No one would have a vested right to this assistance, nor would the fund be used to support continuing work. It would go instead to the state and local governments with the most promising ideas for strengthening their environmental programs. Let me give you two examples: inspections and emergencies.

State inspectors commonly spend up to 40 percent of their time in transit. If they were trained to cover all a plant's environmental problems rather than, say, its water problems, we could increase the proportion of the time they spend inspecting. We could reduce the hassle for business that multiple partial inspections create. The change would require modifying a great many procedures and retraining the workforce. It would require a special staff effort and would incur a number of start-up costs. Supplemental assistance could help.

Environmental emergencies are another example. They are becoming more frequent and complex; they often require skills from all over an agency's staff. An integrated grant is the logical source of funds for these cross-cutting activities. Supplementary assistance could help the agency plan for its response capability, interconnect its data system with existing chemical data banks, and undertake other start-up work.

This fund is terribly important. It would allow us to invest in innovation, to encourage our best front-line managers to try new ways of getting the job done. Given the enormous diversity of circumstances and the constant rapid change we face in the environmental field, we desperately need such venture capital.

This fund will also strengthen our new State/EPA Agreements by giving both sides new tools with which to try the ideas that joint thinking can produce.

Let me give you an example of the kind of innovation we expect to get. A year ago we and several other agencies pooled $4 million for U.S. cities. We wrote to several Mayors and asked them to compete for that pool: to develop and test new ways to accomodate growth while maintaining progress towards attaining air quality goals. Within months we had an astonishing outburst of ideas, and soon we will have practical examples of the new approaches. This sort of innovation could not have come from Washington.

Giving the environment's front-line managers the flexibility, the encouragement, and the resources to manage and improve their programs should (1) allow them to fit their resources to their local needs; (2) stimulate them to imagine and implement new, better integrated approaches; and (3) strengthen their ability to manage.

We have worked closely with your staff -- and many other people -- to make sure the benefits of integrated assistance do not risk weakening Congress's original intent. Let me quickly summarize the most important of these safeguards.

First of all, it is not mandatory. Grantees will participate only if they elect to do so. Moreover, they can choose which of their programs should be included, so long as there are at least two. Categorical support will continue for programs not included. Grantees can even decide to apply for only one integrated grant or for two or more separate ones if more appropriate. A grantee that chooses not to participate at all will still be able to receive categorical grants.

Secondly, IEAA will not change our current methods of requesting funds from Congress or our methods of allotting funds to our recipients. Rather, it will simply allow any participant to propose adjustments in the amounts to be available under any program, subject to approval by EPA. If a grantee later does not continue an integrated grant, it will immediately become eligible for categorical assistance.

We have been very pleased with the show of support from so many interested groups and individuals, for this idea. We understand a number of these interested parties requested to testify, but were unable due to time constraints.

I'd like to submit to you a collection of the letters of interest and support we have received from all over the country.

I believe that passage of S. 1136 will provide an extremely valuable tool for assisting state and local governments with their environmental problems. I urge you, Mr. Chairman, and members of the Subcommittee, to report this bill favorably.

Mr. Chairman, that concludes my prepared statement. We will be pleased to answer any questions you may have.

SUPPORT FOR INTEGRATED ENVIRONMENTAL ASSISTANCE AS OF January 22, 1980

During the past year, EPA has been gratified by the show of support for integrated environmental assistance. We have received numerous letters as well as copies of letters and testimony from various groups and individuals across the country. The following list illustrates that diversity:

Governors

George Busbee, Governor of Georgia
Victor Atiyeh, Governor of Oregon
William J. Janklow, Governor of South Dakota
Edwin Edwards, Governor of Louisiana
Scott M. Matheson, Governor of Utah
Joseph E. Brennan, Governor of Maine
Harry Hughes, Governor of Maryland
Otis R. Bowen, Governor of Indiana
Richard A. Snelling, Governor of Vermont

State Offices

**Howard N. Lee, Secretary, Department of Natural Resources, State of North Carolina
**C. Frank Harscher, III, Secretary, Department of Natural Resources and Environmental Protection, State of Kentucky
**Henry E. Warren, Commissioner, Department of Environmental Protection, State of Maine
Deni Greene, Acting Director, Office of Planning and Research, State of California
James S. Kumagai, Deputy Director for Environmental Health, Department of Health, State of Hawaii
*Larry E. Crane, Executive Director, Department of Environmental Health, State of Iowa
Jane A. Bolin, Assistant to the Governor for Energy and Natural Resources, State of Illinois
Jonathan T. Cain, Special Assistant to the Governor of Michigan
D. G. Criner, Administrative Assistant, State of Arkansas
Jim Monaghan, Executive Assistant to the Governor of Colorado
Ernst W. Mueller, Commissioner, Department of Environmental Conservation, State of Alaska
John F. Spencer, Assistant Director of Office of Water Programs, Department of Ecology, State of Washington
**Mike Mauzy, Director, Illinois Environmental Protection Agency, State of Illinois
**Thomas Eichler, Director, Division of Environmental Control, Department of Natural Resources, State of Delaware

Associations

National Association of State Budget Officers
National Governors' Association
Environmental Policy Center
**Sierra Club
**National Association of Regional Councils
National Clean Air Commission, American Lung Association
*National Association of Counties
The Council of State Governments
*National League of Cities
**National Conference of State Legislatures
Conference of State Sanitary Engineers
Citizens Advisory Committee - New York 208/Water Quality Management Program

Local Government

J. Hamilton Lambert, Acting County Executive, County of Fairfax, Virginia

Other

James M. Frey, Assistant Director for Legislative Reference, Executive Office of the President
David B. Walker, Assistant Director, Commission on Intergovernmental Relations

The single starred names are those who testified before the Senate Subcommittee on Environmental Pollution on January 22, 1980. The double star indicates those who requested to testify but were unable due to time constraints.

The attached materials illustrates the wide spread support for integrated environmental assistance.

What People Are Saying About Integrated Environmental Assistance Act of 1979

Governor Busbee of Georgia

> "During the past several months my office has sent inquiries to some thirty States regarding their position on the Integrated Assistance Act. To my delight, no State reacted negatively."

Governor Janklow of South Dakota

> "The proposed legislation would give governors and their appointed environmental policy officials needed flexibility in dealing with serious interrelated pollution problems that are difficult to address within existing categorical program constraints..."

Governor Edwards of Louisiana

> "A major benefit of the proposed legislation would be the potential to reduce red tape and to streamline bookkeeping and accounting procedures, as well as reduce delays associated with contracts and permits which can result from excessive red tape."

Howard N. Lee, Secretary of the North Carolina Department of Natural Resources and Community Development

> "North Carolina strongly supports the program of supplemental assistance as spelled out in Section 13. We believe that this incentive mechanism will encourage innovation and integration in environmental programming on a scale previously unknown in the United States."

Henry E. Warren, Commissioner State of Maine Department of Environment

> "...I would put in a plug for the one time financial incentive discussed in the drafts of the bill. Such supplemental assistance will set the tune for this innovative program and encourage States reluctant to depart the status quo to at least evaluate the advatnages of integrated programming."

Deni Greene, Acting Director, State of California Office of Planning and Research

> "The most significant feature of this legislation is that it encourages a forum at the State level for recognizing the relationships between air, water and solid waste management planning."

National Governors' Association

> "We believe the proposed consolidation of environmental protection programs to be entirely consistent with our mutual goals of improving the responsiveness and effectiveness of government and bringing inflation under control."

Sierra Club

> "The Sierra Club has long advocated the need for an integrated approach to environmental problem solving.... While we view IEAA as a step in the right direction toward integrated environmental planning, we hope it will not be the last."

National Air Conservation Commission, American Lung Association

> "...the NACC...supports the concept of the proposed Integrated Environmental Assistance as an opportunity for greater flexibility and local choice in use of federal categorical funds for State and local environmental programs."

COMMENTS ON THE INTEGRATED ENVIRONMENTAL ASSISTANCE ACT

Office of the Governor
Atlanta, Georgia 30334

George Busbee
GOVERNOR

August 22, 1979

Ms. Barbara Blum
Deputy Administrator
U. S. Environmental Protection Agency
401 M. Street, S.W.
Washington, D.C. 20460

Dear Barbara:

I appreciate your recent letter regarding my support of the proposed Integrated Environmental Assistance Act. We are very optimistic that a consolidated approach to our Environmental Protection programs at the Federal level will be a major step forward toward improving the efficiency and effectiveness of the States' efforts.

I look forward to the successful passage and implementation of a comprehensive and consolidated Federal assistance program. I will follow with interest as the Administration moves forward with this proposed legislation.

Sincerely,

George Busbee

GB:boh
cc: J. Leonard Ledbetter
Jack Burris

Office of the Governor
Atlanta, Georgia 30334

George Busbee
GOVERNOR

October 10, 1979

The Honorable Edmund S. Muskie
Chairman, Subcommittee on Environmental
Pollution
Committee on Environment and Public Works
4204 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

It is my understanding that you will soon be considering S. 1136, the Integrated Environmental Assistance Act of 1979. I want to offer my sincere apologies for my absence at your hearing. Unfortunately, I am in the midst of budget negotiations with State agencies and will not be able to leave the State for several weeks.

I do want to offer my full support for the Integrated Assistance Act, as it is now written, and for the concept of consolidated environmental grants in general. I have personally spoken on behalf of the bill many times to my fellow Governors and to various interested parties around the Nation.

Within the last fifteen months, I have addressed the Governors of the Natural Resources Committee of the National Governors' Association on two separate occasions seeking their support on this issue. The result of our discussions produced a statement of support to the Congress which I am attaching to this letter.

During the past several months my office has sent inquiries to some thirty states regarding their position on the Integrated Assistance Act. To my delight, no state reacted negatively. I might say that several states had some substantive comments on various provisions of the bill, however, the majority gave overall support.

One point in their letters seemed to be widespread and I think worth mentioning here. There is a concern that if states consolidate their programs, then the Environmental Protection Agency could potentially have additional leverage over individual program elements. I realize that the answer to this concern is largely one of faith in the system, however, it might resolve many fears in the states if the bill or Committee report addressed this issue.

On a more positive note, I want to take a moment to discuss my own support for the concept of Integrated Assistance and also reflect the comments of many of my collegues.

The Integrated Assistance approach allows a streamlined simplified approach to the complexities that constantly confound the current system. In Georgia, one single consolidated grant would greatly complement our one stop permitting system nicely. Several years ago, Georgia created a comprehensive Department of Natural Resources which consolidated all environmental permitting into one division. This system has operated with much more efficiency in dealing with the pressures and intricacies involved in air quality, water quality, water supply and solid waste permits. The Integrated Assistance approach will allow us to further streamline our own program and carry out state and federal mandates with greater efficiency.

The Integrated Assistance approach also allows the Governor to have a more substantive input in determining his own priorities. In Georgia, I have an extremely close working relationship with the head of our environmental management agency, the Environmental Protection Division of the Department of Natural Resources. The flexibility offered in the Act will allow us to react more quickly and effectively to unique situations in Georgia that may not exist in other states. The 20% crossover language is most important to the effectiveness of this bill.

Finally, I am most pleased that the Senate has seen fit to recognize that all states are not ready for the comprehensive approach. A very special and important part of this bill is that the law is voluntary. I believe you will find a considerable amount of support from states who do not like to be forced to participate in a program that they are not ready for. The current bill provides incentive for states to consolidate their programs but does not coerce immediate compliance. This is an excellent and a very astute provision.

In summary and conclusion, I want to reiterate my support for the Integrated Assistance approach. This is the type of legislation the American public wants because it simplifies government, reduces red tape and costs and, finally, allows government to be more responsive to the tax dollar.

If I may be of any help to you in this matter, please do not hesitate to contact me. In the meantime, I will closely follow your proceedings in the Congress.

With kindest regards, I am

Sincerely,

George Busbee

George Busbee

GB:ghr

Attachment

[illegible]

RECEIVED N.G.A. [illegible] 1979

[illegible] ② [illegible] ① [illegible]

VICTOR ATIYEH
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310

September 27, 1979

Governor George Busbee
National Governors' Association
Suite 202, Hall of the States
444 North Capital Street
Washington, D.C. 20001

Dear Governor Busbee:

I endorse your efforts on behalf of the National Governors' Association (NGA) to support passage of the Integrated Environmental Assistance Act of 1979. I especially support those features which:

- Increase flexibility of states to address local priorities including the ability to transfer up to 20 percent of funds from one categorical program to another.
- Simplify program requirements, especially as they relate to maintenance of effort provisions.

Oregon environmental programs are highly integrated in the state Department of Environmental Quality, and it would certainly ease things if Environmental Protection Agency (EPA) programs were also integrated.

We do have some reservations about the proposed legislation. We would like to be assured that Oregon will continue to receive the total amount of funds it has received under the categorical programs and that any additional funds, such as supplementary assistance, will not come at the expense of existing programs. We are also concerned about the manner in which EPA may implement it -- that it will not increase the already heavy administrative burden.

As you can see, my concerns go beyond the funding issue. My staff, including the budget office, will work through NGA, National Association of State Budget Officers (NASBO), and other avenues to achieve improvements in the federal administration of environmental programs.

Oregon has been a leader in environmental protection and will not step aside for the Federal Government to "break trail" -- state control is too important!

If we can be of further assistance, please advise -- and thank you for the opportunity to present these views.

Sincerely,

Vic

Victor Atiyeh
Governor

VA:bl

cc: Ray Long, NASBO

Office of the Governor
STATE OF SOUTH DAKOTA

William J. Janklow
GOVERNOR

RECEIVED
OCT 3 1979
ENVIRONMENTAL PROTECTION
DIVISION
NATURAL RESOURCES

September 24, 1979

The Honorable George Busbee
Executive Office of the Governor
State Capitol
Atlanta, Georgia 30334

Dear Governor Busbee:

I am writing in response to your staff's recent memorandum regarding the proposed "Integrated Environmental Assistance Act." From both a policy management and administrative perspective, this proposal addresses previously expressed concerns which have arisen over the inflexibility of existing federal categorical grants programs. Its enactment should be strongly supported.

The proposed legislation would give governors and their appointed environmental policy officials needed flexibility in dealing with serious interrelated pollution problems that are difficult to address within existing categorical program constraints, primarily through optional combining of two or more EPA grant programs into a single environmental plan.

Of particular importance is new authority for the Governor to transfer up to 20 percent of annual funding among integrated programs. This flexibility would significantly enhance the Governor's ability to set priorities and allocate available resources in response to an individual state's unique problems.

In addition to increasing the Governor's role in determining priorities, the proposed legislation would offer new opportunities to reduce the red tape which sometimes threatens to strangle pollution control efforts. Integrated grants could be utilized to streamline bookkeeping and accounting procedures, as well as reduce delays associated with contracts and permits. Successful initiatives in this area are sorely needed to reduce program administrative costs to states and inflationary pressures on the private sector resulting from time-consuming permit procedures.

The proposed legislation not only provides for increased gubernatorial discretion in resource allocation but also contains supplementary assistance on a competitive basis for innovative or nationally significant projects. These might include development of a streamlined environmental permit system, a state civil penalties program for greater enforcement flexibility, cross-media training of personnel or an integrated laboratory facility. As proposed, such supplementary assistance would not be reallocated from existing categorical programs but would represent additional resources for new state initiatives.

Sincerely yours,

Bill

William J. Janklow

WJJ:jo

State of Louisiana
EXECUTIVE DEPARTMENT
Baton Rouge

EDWIN EDWARDS
GOVERNOR

September 19, 1979

The Honorable George Busbee
Governor of Georgia
203 State Capitol Building
Atlanta, Georgia 30334

Dear Governor Busbee:

I am writing in response to your staff's recent memorandum regarding the proposed "Integrated Environmental Assistance Act." I support this initiative as a means of reducing the inflexibility of existing federal categorical grants to state environmental programs.

The proposed legislation would give governors and their appointed environmental policy officials needed flexibility in dealing with interrelated environmental programs so as to address environmental problems more systematically, and more in keeping with state policies and administrative approaches.

Of particular importance is the proposed new authority for the Governor to transfer up to 20 percent of annual funding among integrated programs. This flexibility would enhance the Governor's ability to set priorities and to allocate available resources in response to an individual state's unique problems.

A major benefit of the proposed legislation would be the potential to reduce red tape, and to streamline bookkeeping and accounting procedures, as well as reduce delays associated with contracts and permits which can result from excessive red tape.

Thank you for the opportunity to present these views and to offer strong support for this important initiative.

Sincerely,

EDWIN EDWARDS

EE:jmm

c: Members of the Louisiana Congressional Delegation
Mr. Dave Johnson, NGA Staff

SCOTT M. MATHESON
GOVERNOR

STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114

RECEIVED
SEP [illegible] 1979
ENVIRONMENTAL PROTECTION
DIVISION
NATURAL RESOURCES

September 10, 1979

Governor George Busbee
State Capitol Building
Atlanta, Georgia 30334

Dear ~~Governor Busbee~~ George:

I am responding to your staff's recent memorandun regarding the proposed "Integrated Environmental Assistance Act." From both policy, management, and administrative propective, this proposal addresses previously expressed concerns which have arisen over the inflexibility of existing federal categorical grants programs. It's enactment should be strongly supported.

Of particular importance is new authority for the Governor to transfer up to twenty percent of annual funding among integrated programs. This proposal emphasizes the advantages of integrating environmental control efforts such as allowing water pollution control resources to be used to meet air quality needs where those needs are determined to be of priority. The advantages associated with the integration of environmental control efforts as opposed to development of specific programs have finally been recognized by EPA. I recognize the need for this approach in our programs here in Utah.

This proposed legislation not only provides for increased gubernatorial discretion and resource allocation but also contains supplementary assistance on a competetive basis for integrated or nationally significant projects. As proposed, such supplementary assistance would not be reallocated from existing categorical programs, but would represent additional resources for new state initiatives.

Thank you for the opportunity to present these views and I offer my strong support for this important initiative.

Sincerely,

Governor

SMM:jek

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE
04333

JOSEPH E. BRENNAN
GOVERNOR

Jack

July 23, 1979

Jack Burris
Special Assistant to the Governor
Office of the Governor
Atlanta, Georgia 30334

Dear Mr. Burris:

My staff has reviewed S. 1136, The Integrated Environmental Assistance Act of 1979, as requested in your memo of June 7. That review leads me to support the views of Commissioner Henry Warren of the Department of Environmental Protection, who fully endorses the concept of S. 1136. I understand that Commissioner Warren has made his support known over a period of months as the concept evolved at the Environmental Protection Agency.

I believe the intention of the act is to increase the flexibility of a state, through the Governor, to recognize shifting priorities and redirect funds accordingly. I am confident that the primary program managers in Maine can take advantage of that flexibility in a manner which will be beneficial to the program objectives of each Governor.

Thank you for seeking our opinion. If assistance is required in the future please let me know.

Sincerely,

Joseph E Brennan

JOSEPH E. BRENNAN
Governor

JEB:mas

cc: Henry Warren, Commissioner
Dept. of Environmental Protection

STATE OF MARYLAND
EXECUTIVE DEPARTMENT
ANNAPOLIS, MARYLAND 21404

HARRY HUGHES
GOVERNOR

July 13, 1979

Mr. Jack Burris
Special Assistant to the Governor
Office of the Governor
Atlanta, Georgia 30334

Dear Mr. Burris:

In response to your letter of June 7, 1979, on the Integrated Environmental Assistance Act, I can state that our chief concern about the language of the Act relates to the provisions requiring pass-through of funds to local governments which would enhance, rather than limit, EPA control over state programs. The grant consolidation provisions are generally welcome, and are certainly preferable to the one-sided consolidation sought to be accomplished by EPA's effort to unilaterally impose state-federal multi-program agreements.

I hope these remarks are of some value.

Sincerely,

Harry Hughes

Governor

OFFICE OF THE GOVERNOR
INDIANAPOLIS, INDIANA 46204

OTIS R. BOWEN, M.D.
GOVERNOR

October 18, 1979

The Honorable George Busbee
State of Georgia
Capitol Square, S.W.
Atlanta, Georgia 30334

Dear Governor Busbee:

I am writing in response to your staff's recent memorandum regarding the proposed "Integrated Environmental Assistance Act." From both a policy management and administrative perspective, this proposal addresses previously expressed concerns which have arisen over the inflexibility of existing federal categorical grants programs. I strongly support the movement toward a block grant approach to funding of programs.

The proposed legislation would appear to give governors and their appointed environmental policy officials needed flexibility in dealing with serious interrelated pollution problems that are difficult to address within existing categorical program constraints. The requirement that the regional administrator approve any reallocations appears, however, to minimize this benefit.

Of particular importance is new authority for the governor to transfer up to 20 percent of annual funding among integrated programs. This flexibility would significantly enhance the governor's ability to set priorities and allocate available resources in response to an individual state's unique problems.

I am in favor of increasing the Governor's role in determining priorities. The proposed legislation would appear to offer new opportunities to reduce the red tape which sometimes threatens to strangle pollution control efforts. However, if integrated grants are to be utilized to streamline bookkeeping and accounting procedures, as well as reduce delays associated with contracts and permits, the old categorical reporting and program planning requirements would need to be eliminated.

The State of Indiana, in short, welcomes any truly substantive change toward block grant funding for environmental programs. A complete formula grant approach, with elimination of funding review in the regional office, should be presented as Indiana's real position. Any modification of the Integrated Environmental Assistance Act of 1979, in this direction, will receive strong support from my office.

Kindest personal regards,

Otis R. Bowen, M.D.
Governor

ORB:sg

cc: John Huie, Ph.D.
State Budget Director

RICHARD A. SNELLING
GOVERNOR

OFFICE OF THE GOVERNOR
STATE OF VERMONT
MONTPELIER, VERMONT 05602

ROUTING
GENERAL
TO: NOTED DATE
SUSPEND TO
FILE

October 11, 1979

The Honorable Edmund S. Muskie
Senator
Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Muskie:

I write at this time to indicate the State of Vermont's support for the proposed "Integrated Environmental Assistance Act of 1979," as proposed in S.1136. Vermont has for some time encouraged activities which would consolidate the state program assistance grants in the environmental field, and I have personally encouraged block type grants. Greater flexibility afforded to the states in the use of block type grants would enhance the efficiency of government and would afford an opportunity to more effectively use the limited funds made available. In the use of currently available funds, greater flexibility is of more assistance to the states than severely constrained additional federal assistance.

Whereas we support the concept of the integrated environmental assistance grant, I have some reservations about supplementary assistance grant provisions of the bill. The concept of the basic bill and the flexibility that it affords should be incentive enough for people to participate in the program without the provisions of the supplementary assistance grant. I am in fact of the opinion that the limitation on the supplementary assistance grant, in that it can only be used for nonrecurring costs, precludes the supplemental grant resources from assisting the basic thrust of the act - that of integrating management and funding of the covered programs. It would be preferable and more akin to the act's stated intent if the supplemental assistance grant were provided on a no match basis to the states to assist them in carrying out the increased management and planning functions necessary in order to develop the integrated program plan required by the act. Planning and management on an integrated media approach is necessary to make the program effective and to maximize the flexibility and efficiency which can result from the act.

Vermont has not just talked about its position of encouraging the integration of environmental programs and their funding. In 1973, the Vermont Agency of Environmental Conservation moved to integrate its air, solid waste, and water pollution control programs by restructuring various elements of the Agency, such that all three programs were under a single manager. In addition, since that time the State resources made available to support these programs have been in a single state budget. This has afforded maximum flexibility in the use of state resources. We do, however, still suffer with the categorical support grants provided by EPA in those areas. Passage of S.1136 would provide us with similar flexibility to manage the federal resources allocated to the state.

In addition to reorganizing the state resources as indicated above, Vermont, in the fall of 1978, was one of the first states in the country to execute a State/EPA Agreement which addressed management and program concerns on a multiple basis. At that time, our State/EPA Agreement included the water pollution control program, air pollution control program, solid and hazardous waste management, and the potable water supply program. Continuing to manage our environmental programs jointly, the Agreement being prepared for execution at this time for Fiscal Year 1980, is expanded further to include our Department of Agriculture's activities in support of the Federal Insecticide, Fungicide, and Rodenticide Act.

The passage of S.1136 would further assist the State of Vermont in accomplishing its objective of optimum integration of its environmental programs. It would give us the necessary flexibility to shift program emphasis as is necessary to meet changing demands, while still meeting the long term goals and objectives of both federal and state law.

The importance of the flexibility afforded by the "Integrated Environmental Assistance Act" should not be underestimated. The small State of Vermont budgets three million dollars in support of the forementioned programs. One-third of this amount is received from the Federal Government in the form of program assistance grants. Inflexibility in the use of these federal funds and in the use of mandated minimum match requirements from the state funds reduces my ability to maximize utilization of the resources available to Vermont.

The limitations on the use of the supplemental assistance grant in the act precludes its use for the recurring costs associated with the development and management of the mandated integrated environmental program plan. I am concerned that states, to become eligible to receive this supplemental assistance grant, may be forced into unwilling marriages between rpograms in order to meet elibility requirements. None of these features contribute the effectiveness of the thrust of the principal provisions of the act - providing a flexible program of integrated financial assistance.

Again, I state that the flexibilities afforded the basic provisions of the act appear to me to be sufficient to encourage states to participate without supplemental assistance grant. Were, however, the supplemental assistance grant to be continued in the bill, I would recommend that the section be rewritten so that the grant could be used for the recurring expenses necessary to develop, manage, and implement environmental programs under an integrated program plan. I would further recommend that the assistance be afforded to the states on a non-matching formula basis in order that stability in the funding of environmental programs can be realized. In the absence of a formula allocation, resources will fluctuate from year to year making program management even more difficult.

I thank you for this opportunity to present the position of the State of Vermont in this matter. I will make my office available to you for further information should you desire. I wish you well in deliberations on this matter and encourage you to act swiftly to afford increased flexibility and greater potential for efficient resource management to the states.

Sincerely,

Dick Snelling

Richard A. Snelling
Governor

RAS/amp

State of North Carolina
Department of Natural Resources
and Community Development
Raleigh 27611

JAMES B. HUNT, JR.
GOVERNOR

HOWARD N. LEE
SECRETARY
TELEPHONE
AREA CODE 919-733-4984

October 26, 1979

The Honorable Edmund Muskie, Chairman
Subcommittee on Environmental Pollution
Senate Environment and Public Works
4204 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Muskie:

The Subcommittee on Environmental Pollution of the Senate Committee on Environment and Public Works will be soliciting comment on S.1136, the Integrated Environmental Assistance Act of 1979, during hearings in early November. Because I will be unable to attend the hearings, I am sending you a written version of North Carolina's comments and asking that these be included in the hearing record.

With kindest regards and best wishes, I am

Respectfully yours,
Original Signed
By
SECRETARY HOWARD N. LEE
Howard N. Lee

HNL/cg

cc: Congressman Richardson Preyer

bcc: Ms. Pat Shore
Dr. Quentin Lindsey
Ms. Ann Lichtner
Mr. Marshall Staton
Dr. Neil Grigg
Mr. John A. Gwynn

INTEGRATED ENVIRONMENTAL ASSISTANCE ACT OF 1979

Comments by

Howard N. Lee, Secretary of the North Carolina
Department of Natural Resources and Community
Development on S.1136

To be submitted into the Hearing Record of the
Environmental Pollution Subcommittee of the
Senate Committee on Environment and Public Works

As Secretary of the North Carolina Department of Natural Resources and Community Development, I am pleased to submit North Carolina's comments on the proposal currently before you, the Integrated Environmental Assistance Act of 1979, S.1136.

The State of North Carolina strongly supports this legislation. We believe that the concepts embodied in this Act are essential for dealing effectively with America's environmental issues through the 1980's.

Flexible and innovative approaches to environmental management will be as important in the 80's as basic research and public awareness have been in the 70's. As we develop solutions, we _must_ be able to translate them into effective and efficient programs. We must learn to manage our programs so that we bring our research findings to bear on real-life situations. S.1136 provides the opportunity and incentive for this learning to begin. We strongly urge your favorable consideration of - and action upon - this bill as written.

Specifically, there are three features of this legislation which commend its favorable consideration by this body.

First, this bill allows for program integration on a _voluntary_ basis. It wisely avoids the counterproductive practice of requiring strict uniformity among states. The State of North Carolina firmly believes that individualized choices and arrangements can better serve the needs of each state and better accomplish the national objective.

Secondly, this bill will allow each governor the _flexibility_ to determine the priorities for his or her state's environmental programs. This flexibility is assured by the provisions of Sections 5 and 11. The former sets out the components of an integrated program plan, while the latter provides funding flexibility by authorizing fund transfers of up to 20% among covered programs. In tandem, these provisions will allow North Carolina to put its available resources where they can do the greatest good for our people.

North Carolina strongly supports the program of supplementary assistance as spelled out in Section 13. We believe that this incentive mechanism will encourage innovation and integration in environmental programming on a scale previously unknown in the United States. These provisions are an attractive incentive at a time when most states have recognized for themselves the need for new approches in environmental management. While research will continue to play an important role, the most pressing current environmental issue is finding more effective and efficient ways of getting the programs already designed "onto the ground" and working for our people.

This issue has been of concern to us in North Carolina for some time. I believe we have made several important improvements. Our recently completed State-EPA Agreement outlined specific steps we will take to bring our environmental agencies into closer coordination and to enhance cooperation in areas of mutual concern. Our Division of Environmental Management, responsible for air and water quality, now operates under a functional organization in which routine operations for either medium are conducted by the same staff. Planning and data analysis have also been integrated.

One word of caution, however. This integration option should not cause us to lose sight of the importance of adequate programming in each environmental medium. If funds are aggregated as they might be someday in this conceptual framework, appropriations should not be reduced in the process.

In summary, the State of North Carolina strongly supports the Integrated Environmental Assistance Act of 1979 as currently written and urges your favorable consideration. We support this bill because it provides: (1) for voluntary participation, (2) for flexibility so that each state may carry out its own priorities, and (3) for incentives to promote innovative solutions to environmental program management.

Mr. Chairman, Committee Members - on behalf of the State of North Carolina, thank you for this opportunity to share our views with you.

Jack Gwynn

C. FRANK HARSCHER, III
SECRETARY

JULIAN M. CARROLL
GOVERNOR

COMMONWEALTH OF KENTUCKY
DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
OFFICE OF THE SECRETARY
FRANKFORT, KENTUCKY 40601
TELEPHONE (502) 564-3350

October 26, 1979

Senator Edmund Muskie
Chairman, Subcommittee on
Environmental Pollution
Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Muskie:

In response to your request for comments on the proposed Integrated Environmental Assistance Act (IEAA), I would like to begin by stating that this department strongly supports the Act's concept, to provide more efficient and effective integrated planning and funding for all our separate categorical environmental programs. I am also very much in favor of this attempt to provide program funding flexibility within a fiscal year since we find ourselves in a feast or famine position too often.

However, I have some reservations about the practical effects of this bill on Kentucky's position with EPA and with local governments. How voluntary this program is seems open to question when EPA's intentions concerning permit consolidation and state-EPA agreements are considered. The IEAA could lead to an effort to force states to consolidate programs and funding in order to receive federal funds. My other major concern, the role of local governments, is that the bill contains provisions for direct grants to local governments without state concurrence. It is quite possible that a local government plan could be at odds with state intentions concerning program consolidation. Funding such a local plan would negate the entire purpose of the Act, consistency in an integration of environmental programs. I will discuss these and other concerns in more detail later.

As I indicated earlier, one of our major reservations about this Act, aside from concern about what new EPA mandatory approach it portends, is the independence of local programs from any state direction. The Act requires that states consult with the pertinent local governments, but makes no reciprocal provision for the development of local government plans. Certainly local participation in IEAA should not be totally dependent on state participation, but direct funding of local without state concurrence will have serious adverse consequences on state programs and will contradict the purpose of this Act. The language of Section 8, Paragraph (a)(2)(i) would severely compromise the voluntary nature of the Act since it allows locals to be funded directly if the state does not receive integrated assistance. A state may deliberately defer immediate consolidation for certain programs because of a need for more planning or coordination, but may choose to integrate other programs. Through Section 8 local governments could be funded for programs that are not part of the state plan to the detriment of state categorical programs in those areas. In view of the chronic shortage of funds at the local level it seems likely that local governments will pursue direct funding. Thus it is imperative that any funds to local governments either pass through as part of the state integrated plans or have state concurrence if local funding is separate from any state efforts.

Also, in many states program responsibility has been assigned by statute to the state level. There is some question as to whether local governments can legally accept program grants in those areas specially assigned to the state. Language needs to be added requiring the grants to be consistent with applicable state and federal laws.

Section 8, Paragraph (a)(2)(ii) contains another provision that needs clarification, direct grants to local governments if the state does not, in the Administrator's judgment, provide adequately for local government participation. This seems too subjective since there is no language describing what constitutes adequate local participation nor a procedure for adopting participation rules. I would recommend that either EPA's judgment not be used as the decision point or that an objective set of guidelines be added to the bill.

The IEAA would allow up to 20% of the funds for the programs included in a state integrated plan to be transferred among those programs. Kentucky should have no problems transferring state program monies during a fiscal year so we would reap several benefits from this provision. It would allow us to circumvent some of the red tape involved with programs and provide faster response to immediate needs.

Overall, the IEAA could be an important step towards a more rational coordinated approach in state environmental programs. It could reduce needless duplication of permitting, monitoring and reporting requirements and the rigidity that now plagues our categorical programs. More importantly, by planning across functional areas, it could help eliminate the often artificial and arbitrary division of environmental programs that now occurs.

I understand that your subcommittee's hearing on S.1136 has been rescheduled for November 8. At that time, I hope you will have the opportunity to examine the perspectives and concerns of all affected levels of government. I will be happy to provide you with any further information on Kentucky's perspective you may desire.

Respectfully,

C. Frank Harscher III
Secretary

CFH:dal

① Alan
② Gordo

C. Frank Harscher, III
Secretary

Julian M. Carroll
Governor

Commonwealth of Kentucky
Department for Natural Resources and Environmental Protection
Office of the Secretary
Frankfort, Kentucky 40601
Telephone (502) 564-3350

October 8, 1979

Mr. Jack Burris, Special Assistant
to the Governor for Intergovernmental Relations
Office of the Governor
Atlanta, Georgia 30334

Dear Mr. Burris:

Attached, is an analysis of the Integrated Environmental Assistance Act from the Kentucky Department For Natural Resources and Environmental Protection's perspective.

As you know, Kentucky has supported an integrated approach to environmental management. I suspect that our views are similar to those of Georgia, because our environmental control programs are organizationally similar. However, I would appreciate receiving any comments you may have on the subject.

Additionally, it is my understanding that testimony before Muskie's subcommittee will be dominated by representatives of local interest groups. Kentucky will not be presenting testimony, but we will be happy to support you if you deem it necessary. If you need any further information, please contact me.

Sincerely,

C. Frank Harscher, III

cdh

cc: Ivan Pottar
Jeff Kell
Jack Wilson
Irene Steinhardt

Attachment

C. Frank Harscher, III
Secretary

Julian M. Carroll
Governor

Commonwealth of Kentucky
Department for Natural Resources and Environmental Protection
Office of the Secretary
Frankfort, Kentucky 40601
Telephone (502) 564-3350

October 5, 1979

TO: Ivan Potter
Administrative Assistant
Governor's Office

FROM: C. Frank Harscher, III
Secretary
Department for Natural Resources
and Environmental Protection

SUBJ: Review of the Integrated Environmental Assistance Act, S.1136

In response to your request for comments on the proposed Integrated Environmental Assistance Act (IEAA), I would like to begin by stating that this department strongly supports the Act's concept, to provide more efficient and effective integrated planning and funding for all our separate categorical environmental programs. I am also very much in favor of this attempt to provide program funding flexibility within a fiscal year since we find ourselves in a feast or famine position too often.

However, I have some reservations about the practical effects of this bill on Kentucky's position with EPA and with local governments. How voluntary this program is seems open to question when EPA's intentions concerning permit consolidation and state-EPA agreements are considered. The IEAA could lead to an effort to force states to consolidate programs and funding in order to receive federal funds. My other major concern, the role of local governments, is that the bill contains provisions for direct grants to local governments without state concurrence. It is quite possible that a local government plan could be at odds with state intentions concerning program consolidation. Funding such a local plan would negate the entire purpose of the Act, consistency in an integration of environmental programs. I will discuss these and other concerns in more detail later.

The IEAA would allow this department to combine two or more of its programs in an integrated program plan. Activities covered include program planning, development, implementation or improvement for inspections, enforcement, monitoring, permit consolidation and regulation/procedure unification. Preliminary facility and site planning can be included "where consistent with the requirements of a covered program." This department can consolidate its activities for two or more of the following federal programs: Federal Water Pollution Control Act, Clean Air Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, Toxic Substances Control Act, Federal Insecticide, Rodenticide and Fungicide Act and the Noise Control Act.

Funding would be authorized for $25 million and competitive awards would be limited to 15 states and 25 local governments in FY 1980. This would be in lieu of federal funding a state would receive for those two or more separate programs. State and local funding match has to be no less than their share of included program costs for the base fiscal year. This replaces any existing matching or maintenance-of-effort requirements for the programs integrated as long as they remain combined. In FY 81 up to 30 states and 50 local governments could receive funding. After that year the fund would be opened to all other eligible state, local and interstate agencies. There is a provision for competitive supplementary funds to recipients of integrated assistance for one-time projects that are innovative and could serve as models. Ten percent of this supplementary category is to be set aside for local governments. The IEAA is to be in effect for five years, FY 1980 through FY 1984.

State governments can be funded directly, provided the governor has signed the integrated program plan. Local governments and interstate agencies can receive funds in two ways. The pertinent state can pass the funding through under its approved integrated plan, or locals and interstate agencies can be funded directly by EPA if one of the following conditions applies: the pertinent state does not receive funding, does not provide adequately for the local government's or interstate agency's participation or the state otherwise concurs.

Certain points must be included in a state plan, including public participation, consultation with and funding to local governments if the state plan gives responsibility to locals, cross-program consequences and management efficiency. Other points will be spelled out in regulations.

As I indicated earlier, one of our major reservations about this Act, aside from concern about what new EPA mandatory approach it portends, is the independence of local programs from any state direction. The Act requires that states consult with the pertinent local governments, but makes no reciprocal provision for the development of local government plans. Certainly local participation in IEAA should not be totally dependent on state participation, but direct funding of local without state concurrence will have serious adverse consequences on state programs and will contradict the purpose of this Act. The language of Section 8, Paragraph (a)(2)(i) would severely compromise the voluntary nature of the Act since it allows locals to be funded directly if the state does not receive integrated assistance. A state may deliberately defer immediate consolidation for certain programs because of a need for more planning or coordination, but may choose to integrate other programs. Through Section 8 local governments could be funded for programs that are not part of the state plan to the detriment of state categorical programs in those areas. In view of the chronic shortage of funds at the local level it seems likely that local governments will pursue direct funding. Thus it is imperative that any funds to local governments either pass through as part of the state integrated plans or have state concurrence if local funding is separate from any state efforts.

Also, in many states program responsibility has been assigned by statute to the state level. There is some question as to whether local governments can legally accept program grants in those areas specially assigned to the state. Language needs to be added requiring the grants to be consistent with applicable state and federal laws.

Section 8, Paragraph (a)(2)(ii) contains another provision that needs clarification, direct grants to local governments if the state does not, in the Administrator's judgment, provide adequately for local government participation. This seems too subjective since there is no language describing what constitutes adequate local participation nor a procedure for adopting participation rules. I would recommend that either EPA's judgment not be used as the decision point or that an objective set of guidelines be added to the bill.

The IEAA would allow up to 20% of the funds for the programs included in a state integrated plan to be transferred among those programs. Kentucky should have no problems transferring state program monies during a fiscal year so we would reap several benefits from this provision. It would allow us to circumvent some of the red tape involved with programs and provide faster response to immediate needs.

Overall, the IEAA could be an important step towards a more rational coordinated approach in state environmental programs. It could reduce needless duplication of permitting, monitoring and reporting requirements and the rigidity that now plagues our categorical programs. More importantly, by planning across functional areas, it could help eliminate the often artificial and arbitrary division of environmental programs that now occurs. I will be testifying in support of this bill before the Senate Environmental Pollution Subcommittee on October 16.

CFH:dal

cc: Jack Wilson, Acting Commissioner, BEP
Irene Steinhardt, Secretary's Office
Frank Wermeling, Secretary's Office
Ken Hoskins, Secretary's Office
Mike Robinson, Secretary's Office
Don Beevers, Supervisor, PCB
Ken Hines, Supervisor, IRB
Craig Ericksen, Supervisor, PRB

STATE OF MAINE
Department of Environment

Henry E. Warren
COMMISSIONER

October 3, 1979

Honorable Edmund S. Muskie, Chairman
Subcommittee on Environmental Pollution
Committee on Environment and Public Works
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Muskie:

As I have previously indicated in correspondence to you, I am in support of the Integrated Environmental Assistance Act of 1979. I will be unable to attend the public hearing on the bill scheduled for October 16, and would appreciate your incorporating my brief remarks in the record. Should there be questions I would be happy to respond to them in writing or talk with Committee staff.

Sincerely,

HEWarren

Henry E. Warren
Commissioner

HEW:ems

cc: Governor Brennan
Senator Cohen
Representative Emery
Representative Snowe
Donald Larrabee
William R. Adams, Jr.

Enclosure

Comments of Henry E. Warren
Commissioner, Maine Department of Environmental Protection

INTEGRATED ENVIRONMENTAL ASSISTANCE ACT OF 1979

Senator Muskie and members of the Subcommittee, my name is Henry E. Warren. I am Commissioner of the Maine Department of Environmental Protection, a position I have held since July 1977. I have been with the Department in several capacities since 1970 and the intervening nine years have been a period during which the mission of the agency, and its staff capability, have increased tremendously. Much of that increase has been due to Federal legialstion and funding and with them have come increasingly persuasive influences on state activities by Federal agencies, particularly the Environmental Protection Agency. Through a combination of regulations and the financial pressure of grant objectives the states have been placed into a mold that reflects national objectives and priorities. However laudable and understandable that process may at times be, it does limit the flexibility of the state to adjust its programs to meet current local needs.

In recent years there has been an effort in the Congress to recognize the need for more flexibility and a larger role for qualified states. I can cite several examples with which I am sure you are familiar. They include the delegation of the N.P.D.E.S. licensing program to the states, the authorization for state administration of the PSD and hazardous waste programs, and the administration of the construction grants program under Section 205(g). I fully support each of these alterations in the system and the underlying willingness of Congress to include the states as full partners in the effort to improve environmental quality for all of our citizens. I believe that time will prove the wisdom of these actions by Congress, even with the growing pains that inevitably occur along the way.

In my view, the Integrated Environmental Assistance Act of 1979 is the next logical step in the direction so firmly established by Congress. One clear restraint that hinders state flexibility is the financial grant system which is developed along categorical lines or, to use the currently popular term, media lines. Each grant supported program has been developed at a different time and under different circumstances, often without recognition of other, related, programs at the state and Federal level. But the days of clearly defined lines between various types of pollution sources are over, and the system we devise to respond to these changing circumstances must reflect this fact. The removal of particulate matter from an industrial air emission, for example, leads to a problem of residue disposal, usually on the land, and this in turn may lead to surface on ground water pollution. Similarly, the removal of wastes from a water discharge leads to the creation of a sludge which may need to be incinerated, thus generating an air quality problem.

In a related area, Federal funding programs are often slow to react to changing needs nationwide or within a particular state. Program momentum and constituencies develop at the national level which limit the ability to cut back in a program, even though the funds might be better used elsewhere. Traditionally, the response has been to raise additional funds for the new concern and continue the old program. Those days, too, are fast disappearing with the current economic situation and outlook.

This legislation will help to correct that problem and grant the flexibility needed, while maintaining the national objectives in each program category. It will allow the Governor and his environmental program administrators to evaluate current needs and adjust a significant portion of grant funds to meet those needs on a year by year basis. It should encourage looking at the interrelationships and broader impacts in each category of concern, thus helping to remove artifically created blinders that may narrow our focus. It allows the manager to manage rather than react solely to outside direction. And it requires integrated program planning that in and of itself should enhance EPA's ability to coordinate the efforts of many agencies with its own.

Two other features of the Act which should be particularly appealing to flinty New Englanders are its voluntary nature and its maintenance of program objectives set forth in each affected statute. Accordingly, those states whose organizational or political structures do not lend themselves to such integration can maintain their current direction with no penalty.

Finally, I would put in a plug for the one time financial incentive discussed in the drafts of the bill. Such supplemental assistance will set the tone for this innovative program and encourage states reluctant to depart the status quo to at least evaluate the advantages of integrated programming.

I appreciate the opportunity to include my remarks in the record and would welcome any questions.

State of California
GOVERNOR'S OFFICE
OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET
SACRAMENTO 95814

DMUND G. BROWN JR.
GOVERNOR

September 17, 1979

Governor George Busbee
Office of the Governor
Atlanta, Georgia 30334

Dear Governor Busbee:

We have been requested by the National Association of State Budget Officers to provide you with our comments on the Integrated Environmental Assistance Act of 1979 (HR 4213, S. 1136). From a policy standpoint, this measure would improve coordination among the various environmental protection programs which in California are administered by several different agencies. From an administrative standpoint, it would reduce some of the red tape resulting from 16 separate categorical grant programs. For these reasons, the Integrated Environmental Assistance Act of 1979 merits support.

Currently in California, each resource protection agency administers categorical program grants for environmental planning and regulation with little opportunity for coordination among these programs. The most significant feature of this legislation is that it encourages a forum at the state level for recognizing the relationships between air, water and solid waste management planning. In addition, it gives the Governor discretionary authority over a portion of the annual funding to encourage the state to weigh competing needs and establish priorities. Combining the categorical grant programs into a block grant format will also consolidate administrative requirements and encourage more streamlined procedures.

Initially, implementation of such a large-scale consolidation effort may result in more rather than less paperwork, and we are naturally concerned about this danger. However, we do support the concept of consolidating these grant programs to encourage coordination and reduce paper.

Sincerely,

Deni Greene

Deni Greene
Acting Director

cc: Chuck Gocke
Winston Hickox
Larry Walker
Gary Magnuson
Pete Weiner

GEORGE R. ARIYOSHI
GOVERNOR OF HAWAII

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801

GEORGE A. L. YUEN
DIRECTOR OF HEALTH

Audrey W. Mertz, M.D., M.P.H.
Deputy Director of Health

Henry N. Thompson, M.A.
Deputy Director of Health

James S. Kumagai, Ph.D., P.E.
Deputy Director of Health

In reply, please refer to:
File: EPHS

August 20, 1979

Mr. Jack Burris
Special Assistant
Office of the Governor
Atlanta, Georgia 30334

Dear Mr. Burris:

A copy of your memorandum of June 7, 1979 on the subject of the Integrated Environmental Assistance Act was forwarded to us from the Office of Governor George Ariyoshi for appropriate action. I would like to take this opportunity to express our support for this legislation.

The Hawaii State Department of Health was one of four states (along with Utah, Washington, and New York) to participate in an experiment in inventing an integrated grant in 1973. To the best of my knowledge, Hawaii is the only one of the four that has continued to utilize this mechanism over the years and we are now firmly committed to it. Our state budgeting system was revised to treat state air, water, solid waste and noise abatement funds as a single unit and our programs are now organized functionally, that is, one branch issues all permits for control of air, water and solid waste pollutants, and a second branch handles all monitoring and enforcement actions, again for all the programs. We intend to integrate the drinking water program also in the near future.

The biggest problem with this system is that the U. S. Environmental Protection Agency continues to be organized categorically with each program having its separate congressional mandate and funding arrangements. This complicates our bookkeeping enormously since an audit trail must be maintained, assuring that air funds are not spent for water activities, or water funds for solid waste, etc. What we really want is an environmental block grant similar to our state funding system so that we could create our annual program based on environmental objectives without regard to a specific federal funding source. However, we do not expect that this can be achieved for some time since each program appears to have a separate constituency nationally.

If we cannot have a block grant, the Integrated Environmental Assistance Act is the next best thing. We particularly like Section 12 Accountabilities. This provision would resolve our audit trail problems and, along with the 20% funding flexibility provision, would allow us to set program priorities to a much greater extent than at present.

I do not perceive any problem in the increased role of the Governor in setting priorities, as noted in your memo. In Hawaii, there is close coordination between the Department and the office of the Governor in establishing program priorities. Moreover, all programs are included in the State/EPA Agreement, which is signed by the Governor and the Regional Administrator of EPA.

I am enclosing a copy of our draft FY 1980 Consolidated Environmental Program Plan for your information. This may be useful as an example of an existing integrated grant. You can see that the administration of this program will be greatly simplified if the proposed legislation is adopted.

If we can be of any further assistance, please feel free to call on us.

Yours truly,

James S Kumagai

James S. Kumagai, Ph.D. gk
Deputy Director for Environmmental Health

cc: Dan Ishii

Sondo

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD 62706

JAMES R. THOMPSON
GOVERNOR

July 18, 1979

Mr. Jack Burris
Special Assistant to the Governor
 for Intergovernmental Relations
Office of the Governor
Atlanta, Georgia 30334

Dear Mr. Burris:

Sylvia Dennen forwarded to me your memorandum of June 7, regarding the Integrated Environmental Assistance Act, for my review.

I have consulted with Mr. Michael Mauzy, Director of the Illinois Environmental Protection Agency, and concur with his support of this legislation. Mr. Mauzy has, however, raised a number of valid concerns which need to be addressed (see attached letter). Should you have questions regarding his comments, he can be reached at Area Code 217/782-9540.

Thank you for providing us with this opportunity to comment.

Sincerely yours,

A. Bol

Jane A. Bolin
Assistant to the Governor for
 Energy and Natural Resources

JAB:lk

cc: Mike Mauzy
 Frank Beal
 Sylvia Dennen

deq iowa department of environmental quality
reply to: Larry E. Crane
phone: 515/281-8854

July 30, 1979

Honorable Senator John C. Culver
United States Senate
344 Russell Office Buidling
Washington, D. C. 20510

Dear Senator Culver:

I am writing in regard to the "Integrated Environmental Assistance Act." As you are aware I have been following the efforts in regard to this Act for the past two years. I understand that hearings are being scheduled for September and I would like to request consideration for testifying at those hearings in support of the proposed Act. I should point out that the financial encentives are not necessary from Iowa's viewpoint.

I hope that the hearings will cover the interests of several of the Committees and Subcommittees of both the House and Senate. Copies of this letter are being sent to other appropriate individuals in the House and Senate in order to express my interests in any hearings that are held.

Thank you for your efforts in regard to this Act. I shall await a response in regard to the hearings.

Sincerely,

Larry E. Crane
Executive Director

LEC:klg

cc: Senator Edmund S. Muskie
Representative Harley O. Staggers
Representative Harold T. Johnson
Mr. Karl R. Braitnwaite
Mr. Christopher E. Dunne
Ms. Joan M. Kovalic
Mr. Elmer "Dutch" Vermeer, Governor's Office,
State of Iowa

deq
iowa department of environmental quality
reply to: Larry E. Crane
phone: 515/281-8854

July 13, 1979

Mr. Jack Burris
Special Assistant
Office of the Governor
Atlanta, GA 30334

Dear Mr. Burris:

Your memo of June 7, 1979 regarding the "Integrated Environmental Assistance Act" addressed to Mr. Dutch Vermeer of the Governor's Office has been forwarded to our Department for comment. Our Department is in favor of this legislation and our support has been communicated to Iowa's congressional delegation. We have also worked with EPA to encourage such legislation. The Iowa Department of Environmental Quality was one of the first states to apply for and receive a consolidated grant from EPA. The first Iowa consolidated grant was received in FY73.

Sincerely,

Larry E Crane

Larry E. Crane
Executive Director

LEC:JEO:klg

cc: Mr. Dutch Vermeer, Office of the Governor, State
of Iowa

iowa department of environmental quality
reply to: Larry E. Crane
phone: 515/281-8854

March 28, 1979

Honorable John C. Culver
United States Senator
Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Culver:

I am writing in regard to proposed legislation entitled "Integrated Environmental Assistance Act of 1979." The legislation was prepared by the U.S. Environmental Protection Agency with considerable input from the Office of Management and Budget (OMB). Several State Agency Directors including myself have worked with EPA, OMB and the National Governor's Association during the preparation of the proposed legislation.

At some point in time, the legislation will be considered in the Senate Committee on Environment and Public Works. I would like to lend my support to the passage of legislation with the intent behind this proposal. I have taken the liberty to attach a draft copy of the proposed legislation as well as a section by section analysis which has been prepared.

Iowa was one of the earlier states to utilize the existing "Consolidated Grant" provisions for EPA funding. The integration of the State's programs for the greatest impact on environmental problems has been my goal during all of our efforts. The funding flexibility offered by this proposed legislation will greatly enhance the State's efforts to meet our environmental objectives.

I would be pleased to work with you and your staff during any consideration of this type of legislation. In particular during the Committee work on the legislation. I look forward to hearing from you on this matter.

Sincerely,

Larry E. Crane
Executive Director

LEC:klg

cc: Elmer "Dutch" Vermeer, Governor's Office

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

WILLIAM G. MILLIKEN
GOVERNOR

June 22, 1979

Mr. Jack Burris
Special Assistant to the Governor for
Intergovernmental Relations
State of Georgia
Office of the Governor
Atlanta, Georgia 30334

Dear Mr. Burris:

Thank you for your letter requesting my comments concerning S. 1136. This bill is a significant improvement over previous drafts of the bill offered by the Administration, but I still have trouble with several sections. Michigan has supported the concept of consolidated grants, and the director of our state Department of Natural Resources has testified in this regard before the Senate Public Works Committee.

I am disturbed by the language in Section 8 (2) (i) and (ii). I believe the bill must recognize that in many cases, Michigan being one, state laws give state departments specific responsibilities and state governments have made individual decisions regarding the division of responsibilities between state and local governments. Section 8 gives the EPA Administrator the power to unilaterally ignore the previous decisions of state legislators and governors in this respect, and the authority to enforce such a decision by shifting federal funds from a state to a local government.

In another sense, subsection (i) could be interpreted as an arm twisting technique designed to get states into the program. I believe that an incentive approach such as contemplated in Section 17 should suffice.

The legislation should recognize that local governments have differing degrees of competence and interest in environmental programs. Subsection (ii) seems to assume that local governments can be provided involvement in environmental decision making to some uniform degree through the federal rulemaking process, and that the Administrator is informed and competent to make judgements concerning the adequacy of local involvement. We must object to this approach, particularly in view of the fact that for many of the programs covered, the Governor remains responsible for assuring that the requirements of the various acts are met. If the Administrator is to be given the discretion to include local governments in programs relating to such legislation, then the Governor's responsibility for assuring compliance will have to be shifted as well.

I also have a difficulty with Section 14. As I understand this section, once the case year expenditure is determined, the state would have an obligation to increase its share of expenditures if the federal government unilaterally decided to reduce its share. The reverse could also be true, i.e. the state's expenditure could be reduced if the federal government increased its share. I can assure you that while our state legislature would gladly accept additional federal assistance, they will object most strongly to any requirement that state taxpayers pick up additional costs of a federal program because the Congress has reduced its share of the obligation.

Again, thank you for the opportunity to review this. I hope these comments are of use to you. Please give my regards to Gordon.

Sincerely,

Jonathan T. Cain
Special Assistant to the
Governor

JTC/mbs

STATE OF ARKANSAS
OFFICE OF THE GOVERNOR
State Capitol
Little Rock 72201

Bill Clinton
Governor

June 27, 1979

Mr. Jack Burris
Office of the Governor
Atlanta, Georgia 30334

Dear Mr. Burris:

Your memorandum to Rudy Moore with the attached copy of S 1136 has been referred to me for reply.

The Arkansas Department of Pollution Control and Ecology and this Office support the Integrated Environmental Assistance Act as embodied in S 1136.

I agree that the consolidation of the grants and the ability to assign 20% of one grant to another area will result in more efficiency and a streamlined operation. These are the attractive aspects of the bill and you can be assured that the State of Arkansas supports the concept.

Sincerely,

Dave

D. G. Criner
Administrative Assistant

DGC/wdc

Best wishes to Gordon

State of Colorado

EXECUTIVE CHAMBERS
136 State Capitol
Denver
80203

RICHARD D. LAMM
Governor

June 21, 1979

Mr. Jack Burris
Special Assistant to the Governor
for Intergovernmental Relations
Office of the Governor
State Capitol
Atlanta, Georgia 30334

Dear Jack:

Thank you for your June 7 memo regarding S. 1136, the Integrated Environmental Assistance Act of 1979. Our Health Department has been following this legislation, and has commented favorably on the Bill. Although they did express concern over loss of support in the past for many programs switched from categorical to bloc grants, the flexibility of this Bill adequately addresses that concern.

I have looked over the legislation and discussed it with Governor Lamm. He sees no real problems with it and does support the Act. The voluntary and flexible nature of the Bill make it particularly appealing. Congratulations on your role in working with the Administration in formulating this legislation. I believe it can really help promote the integration and coordination of environmental programs.

Best regards,

Jim Monaghan
Executive Assistant
to the Governor

cc: Gordon Harrison ✓

STATE OF ALASKA / JAY S. HAMMOND, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

POUCH O—JUNEAU 99811

June 14, 1979

Mr. David Johnson
National Governors' Association
Hall of the States
444 North Capitol Street
Washington, D.C. 20001

Dear Mr. Johnson:

This letter is in reply to your memorandum of May 1, 1979, requesting comments on the draft Integrated Environmental Assistance Act of 1979.

After reviewing the materials, we strongly support the objectives of the draft legislation. The state of Alaska has, over the last several years, been trying to achieve several of the goals proposed in this legislation. Specifically, we are consolidating permit systems; attempting joint federal-state planning priority setting efforts, and two or more state agencies are working toward common environmental quality goals and state federal data systems. However, we do not believe that the provisions of the draft bill adequately allow states to meet the stated objectives.

One of the basic objectives of the legislation is flexibility. Yet flexibility is highly constrained and restrained under the draft legislation. Improvements which we recommend to achieve the needed flexibility are:

1. Allow the states the option of including 201 funding in the integrated program. Twenty percent transfers in this budget category could give states that receive minimal EPA funds a great deal of latitude and leverage to create innovative approches to environmental quality programs.

2. Under Section 7 of the proposed legislation, neither integrated nor supplemental funds can be used for any construction activities. Again, although a state's planning and data may indicate, for example, a need for construction of a community water supply as the answer to a set of connected environmental quality problems, funds could not be used for this solution. Other solutions would, we suppose, have to be found.

The above is not meant to imply that the state of Alaska sees increased construction as the answer to the set of environmental problems addressed in the legislation. Indeed, nonconstruction solutions are very important to us. The draft legislation does not particularly forward these approaches either.

3. While the legislation expresses a belief and commitment to the idea of integrated local-state effort and to delegation to the appropriate governmental level, a state must pay to do so. If local governments accept responsibility for programs currently conducted by the state agency, then the sums of money that had gone to the state to conduct that program would go to the local governments instead. In purely economic terms, it is less costly for the state to conduct several programs that could be conducted better on a local level. However, while the funding is an incentive to local governments to take over those programs, insufficient funds are provided for all local governments to assume programs. We recommend that if a state and its local governments agree to a transfer of responsibility for the conduct of a program or part of a program, then the federal government should supply additional funds to enable the new local government program to succeed.

4. Disregarding flexibility and innovation, the legislation limits transfers between programs to 20 percent of the federal and state program receipts. We urge that states be permitted to make unlimited transfers of state funds and not have those bound by the 20 percent limitation. This should be done within the requirement offered by the legislation of single maintanance of effort.

   Such a change would truly allow states to be responsive to the needs and approaches which have been identified as suitable to that state. The federal government would still have a significant amount of control, as program approval by the EPA administrator would still be required.

5. Our last recommendation relates to any possible review panel. Review panels should include state members, as well as EPA and Regional EPA members.

In summary, while we support the Integrated Environmental Assistance Act, especially in terms of its objectives which are objectives shared by the state of Alaska, we feel that improvements can be made in the draft which would enable EPA and the states to meet those objectives in a more efficient manner.

Sincerely,

Ernst W. Mueller
Commissioner

cc: Senator Gravel
Senator Stevens
Congressman Young

STATE OF WASHINGTON

Dixy Lee Ray
Governor

DEPARTMENT OF ECOLOGY
Olympia, Washington 98504 206/753-2800

May 18, 1979

Honorable William Proxmire
Chairman, Senate Appropriations Subcommittee
on HUD and Independent Agencies
Room S 125
Capitol
Washington, D.C. 20510

Dear Senator Proxmire:

I presented testimony to your committee May 3 regarding appropriations for the Environmental Protection Agency. Because of limited time I was not able to present some remarks regarding a proposal by the administration entitled the "Integrated Environmental Assistance Act of 1979." I want to advise you that I endorse this proposal. I believe it will provide flexibility needed by state and local governments to determine their individual environmental protection priorities which should simplify state and local grant administration through reduced paper work, duplication and reporting requirements.

Integration of environmental programs will support state efforts to streamline permit procedures. This should have the affect of reducing delays for many public and private projects and thereby reduce costs.

Our endorsement of this proposal is based on the legislation being optional to the states. The variety of administrative arrangements for environmental programs among the states demands that the program be optional.

When this bill is introduced to Congress, I urge that it be given serious consideration for funding provided that it is clearly optional to the states to enter into the program of integrating their environmental programs.

Sincerely,

John F. Spencer
Assistant Director
Office of Water Programs

JFS:nd

cc: Senator Warren G. Magnuson

217/782-3397

April 19, 1979

Calvin K. Sudweeks
Executive Secretary
Water Pollution Committee
Post Office Box 2500
Salt Lake City, Utah 84110

Dear Cal:

I learned recently that a meeting with USEPA was scheduled for April 25 to discuss the integrated grant program (the proposed legislation) and felt that you should have benefit of written comments from Illinois concerning our position on this program.

Conceptually, we support the integrated grant program approach because it provides an opportunity for states to tailor their program to meet state needs. The realization of this objective, however, is dependent upon care being used by the regional USEPA offices in the administration of the program. The potential for flexibility is created and one either has faith that the program administration will work or won't. I have faith that it can be made to work. The proposed program also does offer some potential for simplified paper work; however, this aspect of the program is being overplayed. I doubt seriously, that the amount of paper work can be significantly reduced. I do hope, however, that the grant award process can be speeded up and that, to me, is an advantage. The proposed program offers the potential for single record-keeping and single audit of all environmental grants. At the present time, IEPA is administering eight different USEPA grants, and at the same time, maintaining the books in accordance with required state procedures. Keeping nine sets of books is driving us nuts, and is an unnecessary administrative burden. The program as presented provides for voluntary participation, another feature which I find beneficial. It allows each state to customize to meet its institutional situation or to choose, for whatever reason, to not participate.

On the other side of the ledger, we do have some concerns with the program as proposed and they are listed below:

1. A new maintenance of effort requirement is created which replaces the existing maintenance of effort requirement on the categorical grants which are integrated. Like most other existing maintenance of effort requirements the amount of state financial support to the programs is fixed, whereas the Federal funding can be variable. It seems to me, that some provision for state reduction of maintenance of effort should be provided in the event the federal program support is

reduced. For many of the categorical grants, the proposed maintenance of effort will codify existing state overmatch to become a new base for maintenance of effort purpose. Unless this feature can be worked out, states will have to exercise great care in choosing which of the categorical programs to integrate.

2. The degree of consultation with local governments should be clarified. I have talked with USEPA on several occasions, and I cannot get clarification as to whether consultation with all local governments is necessary, or whether it is the intent of USEPA to provide consultation with local government program grantees (i.e., local air pollution control agencies, designated 208 agencies, etc.) USEPA must get more explicit in this area so that we know what their intentions are.

3. The implication is that integrated grant funds will be passed through to local agency grantees. This, in my judgment, should be an optional provision at state option. In Illinois, if we pass funds through to local agencies, the funds must be appropriated by the General Assembly and therefore the act of passing through the state agency creates an unnecessary undue burden on local grantee participation in the grant programs. I would not recommend that this be a mandatory feature.

4. The concept is to provide for transfer of funds between the categorical grant programs so that programs can be tailored to meet state needs. However, in the response to question 21 on the question and answer sheet accompanying the integrated grant legislation, it is indicated that the Administrator may wish to protect some programs by requiring in EPA's annual guidance that no funds be transferred from them at all. This appears contradictory and inconsistent. If the state is to have flexibility, it must be provided flexibility; not necessarily subflexibility subject to the Administrator's annual program guidance. After all, if the state proposes to transfer funds, any such transfer must be approved by the Regional Administrator as part of the program approval and, therefore, the protectionist language provided by the response in Section 21 is unnecessary and may well signal the intended lack of flexibility in the program.

5. Incentive funds were provided and USEPA's scheme is that each participating state has the opportunity to compete on a national basis for supplementary assistance. I am completely unimpressed to date with the national competitions which USEPA has conducted and it's my view that that is just asking for a system to be established in which grant assistance is awarded based on factors other than the program merits. If incentive funds are provided, they should be

allocated to the Regions and I'm willing to accept a Regional competition for supplemental funds. In our experience, Regional award of supplemental funds is more likely to be made on program merits and less on other factors including political than is the case in headquarters.

6. Section 9 of the Act is completely unacceptable in that I think it means that no local funding is required in support of local participation in the conduct of environmental programs by local governments. I think it's reasonable to assume that if a local government is given responsibility for activities under the state's integrated program, that the Administrator shall assure that the plan provides adequate funding from non federal sources to match the federal funds. In Illinois, we have three local air pollution control agencies, all three of whom commit substantial local funding in support of the State Air Pollution Control Program. As I read Section 9, it would require that for these programs to continue, the state would have to fund what is now a local share.

7. All states should recognize that in these "negotiations" that USEPA holds all the cards. It's not a lot different than in negotiating the present categorical grants; however, with the larger scope, the negotiating position may become more rigid by USEPA.

8. It's clearly the intent that any incentive funds provided are for the purpose of program enchancement, that is, one time expenses. Some indication should be given as to whether these one-time funds once awarded can be expended over a multi-year budget period because many program enhancements cannot be completed within the same year of grant award.

9. USEPA believes that the process of applying for integrated assistance will be no more complicated than existing program grant procedures. In my view, this is unrealistic and untrue. Achieving program integration, the purpose of the entire exercise will require much more effort to think through program coordination on an intermedia basis, how to achieve procedurally program integration and will require much more thought on the part of state agencies from a management viewpoint than is currently required in the application of the categorical grants. This isn't to say that this effort should not be spent but just that it's unwise to perpetuate the myth that this is going to be simpler than the present system.

10. The time schedule for the submission of an integrated program grant application and its review by the Regional Office is such that if it is disapproved and the state has to then reapply for the separate categorical grants, the categorical grant applications will be late.

Provisions should be made under these conditions that the regulatory penalties for late submissions which are possible are not imposed. The system is also set up for a draft program plan by June 1, following which the RA negotiates concerning the plan program accomplishments for an August 1 final submission. At the August 1 checkpoint, the RA then has the opportunity to approve the plan, conditionally approve it, or disapprove it. If the plan is responsive to the negotiated strategy and negotiations, why does the RA then have the opportunity to disapprove the plan? What is the appeal mechanism for an agency that disagrees with the basis of the RA disapproval?

11. The financial aspects of coordinating the integrated grant as reflected by the responses to questions 42 and 44 are of some concern. I understand the practical realities that USEPA cannot make grant awards in the absence of release of allotments; however, the concept of supplementing awards through a grant amendment process raises a host of rather difficult financial arrangements at the state level. This should be thought through more clearly.

12. The response to question 51 for all practical purposes in Illinois eliminates us from participation in the integrated grant program. Allegedly, a county must support expenditures relating to negotiated program elements and outputs. Our books are not kept by program elements and outputs. Our books are maintained pursuant to state law by objects of expenditure or expenditure class and the books to be audited cannot be kept in any other way. This has also been a problem with the categorical grants. I hope it can be worked out the same way. We cannot keep an auditable set of books by program element. The response to question 52 alludes to the same problem and expands upon it. Unacceptable.

13. The legislation Section 5B should have the words "after consultation with the state or states" inserted immediately after the word Administrator.

14. In Section 7A the concept of having all programs consistent with national objectives significantly reduces the flexibility. There seems to be an inherent assumption that national objectives are consistent with state needs. This presents a large area for conflict and opportunity for reduction in flexibility.

Cal, I suggest that we ask USEPA at the meeting to develop the regulations to implement the integrated grant program so that we have an opportunity to work with them and see these regulations prior to any commitment to support the legislation. I think we should work support for this legislation as we did for Cleveland-Wright. It's a good concept but it's a concept that's easy to circumvent the advantages through regulations promulgated by the Administrator to implement the legislation. Let's see the regs.

Sincerely,

Michael P. Mauzy
Director

MPM:jb/6787A/6-10

cc: Robbi Savage
Roger Kanerva
Jack Moore
Ira Markwood
Dan Goodwin
Jim Young

DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF ENVIRONMENTAL CONTROL
STATE OF DELAWARE
P.O. BOX 1401
DOVER, DELAWARE 19901

September 19, 1979

Mr. Karl Braithwaite
Subcommittee on Environmental Pollution
4204 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Braithwaite:

It has come to my attention that the Senate is scheduling a hearing on EPA's proposed legislation for integrated grants.

This concept offers potential benefits of importance to our programs for effective environmental management in Delaware.

This is to request an opportunity to participate in this hearing and express Delaware's views regarding how this legislation can strengthen the Federal-State partnership in environmental management.

Sincerely,

Thomas P. Eichler
Director

TPE:bh

bcc: Mr. Harvey Pippons
Mr. Paul Ambrose
The Honorable John Wilson

NATIONAL ASSOCIATION OF STATE BUDGET OFFICERS
HALL OF THE STATES 444 NORTH CAPITOL STREET, N.W. WASHINGTON, D.C. 20001 (202) 624-5382

November 2, 1979

Mr. Karl Braithwaite
Staff Director
Subcommittee on Environmental Polution
Committee on Environmental and Public Works
6231 Dirksen Building
Senate Office Building
Washington, D.C. 20510

Dear Mr. Braithwaite,

I am enclosing a copy of the resolution adopted by our Executive Committee supporting integrated grant programs.

Thank you for your help in this matter.

Sincerely,

Raymond S. Long

Raymond S. Long
Executive Director

enclosure

cc. Jack Gwynn w/enc.

RESOLUTION

The Integrated Environmental Assistance Act of 1979 (H.R. 4213-S. 1136)

WHEREAS, Proposed legislation, H.R. 4213 and S. 1136, will consolidate some funding within the federal environmental grants; and

WHEREAS, this will provide greater flexibility for the states and improve executive direction and program effectiveness.

Now, therefore, be it resolved, that the National Association of State Budget Officers supports this federal grant integration and will transmit copies of this resolution to the National Governors' Association and appropriate Congressional committees.

Approved by the Executive Committee
of the National Association of State
Budget Officers
October 11, 1979
Portland, Oregon

National Governors' Association

Julian M. Carroll
Governor of Kentucky
Chairman

Stephen B. Farber
Director

February 28, 1979

The Honorable Edmund S. Muskie
Committee on Environment and
Public Works
Subcommittee on Environmental
Pollution
4204 Dirksen Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Muskie:

We are writing to express the support of the National Governors' Association for the general concept of consolidating existing federal grant-in-aid programs and specifically to endorse the thrust of the Administration's pending legislative proposal to permit consolidation of environmental protection grants.

The major advantages of this proposal include flexibility for state and local governments in determining their individual environmental protection priorities and the ability to more accurately target available resources; encouragement of integrated planning, implementation and management across individual media program lines; and simplification of state and local grant administration through the reduction of paperwork, duplication of effort and reporting requirements.

Additionally, a consolidated approach would compliment and support current state efforts to streamline their permitting procedures. Such efforts promise significant results in reducing inflation associated with permitting delays and should be encouraged at all levels of government.

Given the variety of administrative arrangements for environmental programs which currently exist among the states, we would urge that such legislation provide an optional approach to individual state participation. In this manner, incentives would be provided for interested states to develop successfully integrated programs which other states may choose to adopt in the future, while maintaining current categorical funding arrangements for states preferring that approach.

We believe the proposed consolidation of environmental protection programs to be entirely consistent with our mutual goals of improving the responsiveness and effectiveness of government and bringing inflation under control. We therefore urge that you give prompt consideration to this initiative and invite you to work closely with the National Governors' Association on the legislation.

Sincerely,

Julian M. Carroll
Chairman

Richard D. Lamm

Richard D. Lamm
Chairman, Committee on Natural
Resources and Environmental
Management

Richard A. Snelling

Richard A. Snelling
Chairman, Committee on Executive
Management and Fiscal Affairs

National Governors' Association

Julian M. Carroll
Governor of Kentucky
Chairman

Stephen B. Farber
Director

February 28, 1979

The Honorable Henry A. Waxman
Chairman
Subcommittee on Health and the
Environment
Committee on Interstate and
Foreign Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Waxman:

We are writing to express the support of the National Governors' Association for the general concept of consolidating existing federal grant-in-aid programs and specifically to endorse the thrust of the Administration's pending legislative proposal to permit consolidation of environmental protection grants.

The major advantages of this proposal include flexibility for state and local governments in determining their individual environmental protection priorities and the ability to more accurately target available resources; encouragement of integrated planning, implementation and management across individual media program lines; and simplification of state and local grant administration through the reduction of paperwork, duplication of effort and reporting requirements.

Additionally, a consolidated approach would compliment and support current state efforts to streamline their permitting procedures. Such efforts promise significant results in reducing inflation associated with permitting delays and should be encouraged at all levels of government.

Given the variety of administrative arrangements for environmental programs which currently exist among the states, we would urge that such legislation provide an optional approach to individual state participation. In this manner, incentives would be provided for interested states to develop successfully integrated programs which other states may choose to adopt in the future, while maintaining current categorical funding arrangements for states preferring that approach.

We believe the proposed consolidation of environmental protection programs to be entirely consistent with our mutual goals of improving the responsiveness and effectiveness of government and bringing inflation under control. We therefore urge that you give prompt consideration to this initiative and invite you to work closely with the National Governors' Association on the legislation.

Sincerely,

Julian M. Carroll
Chairman

Richard D. Lamm

Richard D. Lamm
Chairman, Committee on Natural
Resources and Environmental
Management

Richard A. Snelling

Richard A. Snelling
Chairman, Committee on Executive
Management and Fiscal Affairs

ENVIRONMENTAL POLICY CENTER
317 Pennsylvania Ave., S.E., Washington, D.C. 20003
(202) 547-6500

July 19, 1979

Testimony

by

David Berick, Washington Representative

SEE Page 9
(other pages not included)

-9-

Congressional philosophy of allocation of regulatory responsibilities as well as increase uniformity of standards among states. Licensing and Inspection and Enforcement Divisions of the NRC should be integrated into the agreement state review process.

3) Technical assistance should be increased and specific grant programs to assist state radiation regulatory agencies should be established. One possible vehicle for this is the Integrated Environmental Assistance Act (H.R. 4213) which would provide grant assistance to state regulatory agencies for a number of environmental enforcement programs with the flexibility to fit the specific allocation of regulatory authority within the state. The Act would also buttress the radiological assistance already provided by EPA under its Federal Radiation Council authority. The role which EPA plays, especially that of its radiation laboratory capability, is often ignored although it is much used and presently overtaxed due to budget cutbacks.

4) The NRC's tritium and nuclear material reporting requirements for agreement states should be revised to include direct submissions to the NRC, to require concurrent submissions to the appropriate state regulatory agency, and to require prompt review by the NRC of these reports with a subsequent report to the appropriate state agency of the NRC's findings. The present practice of material reporting appears to serve no one.

The ideas behind these recommendations are not altogether new ones. The NRC Task Force Report on Review of the Federal/State Program for Regulation of the Commercial Low-Level Radioactive Waste Burial Grounds reported on

by Ansel Adams in *This is the American Earth*

SIERRA CLUB

330 Pennsylvania Avenue, S.E.
Washington, D.C. 20003
(202) 547-1141

October 16, 1979

Re: S. 1136, The Integrated Environmental Assistance Act

Subcommittee on Environmental Pollution
Committee on Environment and Public Works
6231 Dirksen Senate Office Building
U.S. Senate
Washington, D.C. 20510

Gentlemen:

Please include the enclosed statement and suggested amendments in the hearing record on S. 1136, The Integrated Environmental Assistance Act.

Thank you.

Sincerely,

Rhea L. Cohen
Rhea L. Cohen
Washington Representative

Enclosures

INTEGRATED ENVIRONMENTAL ASSISTANCE

Be It Resolved that Congress, in its deliberations over the Integrated Environmental Assistance Act, be urged to provide for uniformity of eligibility requirements by allowing that the least restrictive of the requirements in a grant application be the standard of eligibility for the application.

WHEREAS, the National Association of Regional Councils has endorsed the concept of integrated environmental assistance, and

WHEREAS, an act to provide for integrated environmental assistance now being prepared by the Administration and has become available for discussion, and

WHEREAS, the proposed act provides for state dominance of local participation in the program including funding, and

WHEREAS, the states in many cases have not adequately demonstrated an interest in involving local governments and regional councils in environmental planning and implementation, and

WHEREAS, the National Association of Regional Councils holds that environmental programs must be planned and implemented by local governments and their regional councils.

Now, Therefore, Be It Resolved that the National Association of Regional Councils continues to endorse the concept of integrated environmental assistance, and

Be It Further Resolved that the National Association of Regional Councils does not approve of state control over environmental programs and funding or state mandating of solutions to local environmental problems, and

Be It Further Resolved that the National Association of Regional Councils advocates the direct relationship between local governments and the USEPA to plan and implement environmental protection within a framework jointly created by the states and the local governments.

by Ansel Adams in This is the American Earth

SIERRA CLUB
330 Pennsylvania Avenue, S.E.
Washington, D.C. 20003
(202) 547-1141

October 16, 1979

FOR THE RECORD OF THE HEARING ON
S. 1136
THE INTEGRATED ENVIRONMENTAL ASSISTANCE ACT

Submitted to the Senate Committee on Environment and Public Works

Subcommittee on Environmental Pollution

Submitted by

J. William Futrell, Ph.D.
Director and Former President, Sierra Club
and
Rhea L. Cohen
Washington Representative

The Sierra Club has long advocated the need for an integrated approach to environmental problem solving. The bill, S. 1136, Integrated Environmental Assistance Act of 1979, or IEAA, which is currently before your Committee, is one step along that path. The Sierra Club supports that bill and urges the Committee to approve it.

We are concerned that the current Environmental Protection Agency grants system forces most states and local governments to deal with the environment not as a whole but in separate parts, such as air, water, and solid waste.

Nature does not respect those artificial boundaries. For example, hazardous waste is not merely a solid waste problem: it can create air pollution if burned or water pollution if buried. Aerial applications of chemicals, which are regulated under a pesticide control program, can cause both air and water pollution. Environmental protection officers constantly face problems caused by our current piecemeal approach, especially as exemplified by EPA's current grant awards process for states and local governments.

When environmental protection and the grants to bring it about do not follow nature's organization, the result is inflexibility, inadequate program planning and administrative complications. If the Congress passes the Integrated Environmental Assistance Act, EPA and its state/local government grant recipients would be enabled to deal with environmental matters as a whole--not through independent programs rigidly limited by legislative and organizational boundaries.

Some key features of S. 1136 in which the Sierra Club is particularly interested are section 5(c), public participation; section 6(d) Federal oversight; section 7(b)(3), savings to the public; section 7(d)(4), trial program; and Section 13, supplemental assistance.

Public Participation. In the past, citizen groups such as the Sierra Club have only infrequently monitored EPA grants to the states. This is primarily because EPA and the states currently negotiate up to sixteen grant agreements, which amounts to having to deal with sixteen officers and sixteen plans. Volunteer organizations have neither the staff nor the resources to review so many plans. IEAA would simplify this procedure by telescoping two or as many as sixteen grant programs into one, with one contact person.

An additional feature that we support is the provision that the public be involved in the development of a proposed integrated plan, and in the implementation of the approved integrated program. Members of the general public would be enabled to review and affect what a state or local government intends to do, and does, with its EPA grants.

As with any legislation, implementation is a key step. We recommend the inclusion of a section in EPA's state grant applications requiring the applicant to report on its public participation program, both in developing an integrated plan, and also in the implementation of its proposed program. (Several proposed amendments are attached for your Committee's consideration.)

Federal Oversight. A crucial element of IEAA is the role of Regional EPA Administrators in reviewing and approving proposed integrated plans. We support increased flexibility for the states in managing their environmental programs. However, our experience with the implementation of early environmental laws of the late 1950's and throughout the 1960's, has shown that without federal oversight, states and localities are subject to intense local political pressures opposed to implementing controversial or stringent environmental laws or regulations. Congress recognized this problem when it drafted amendments to the Clean Air and Water Acts early in the present decade. We support the provisions that provide the Administration the necessary review and approval powers to ensure that federal mandates are carried out.

Savings to the Public. We support those efforts of the federal government to institute cost savings, so long as they streamline but do not undermine environmental programs. Since IEAA's goal is to simplify multiple programs' administrative procedures, by means of a single grant application, a single reporting process and single matching funds requirement, the government's cost of doing business should be noticeably reduced.

Trial Program. We support the concept contained in S. 1136, of phasing in the integrated planning program over three years' time with review by and reports to Congress. This would allow for either refinement or abandonment of the program, before EPA has made irretrievable commitments.

Supplemental Assistance. Incentives for performance appear to be necessary to foster innovation. Frequently, state and local governments resist funding innovative programs. New programs, such as a toxic registry or consolidated laboratory facilities, go begging for lack of start-up funds. This is an area in which the Sierra Club would welcome an opportunity to work with states and local governments to devise projects worthy of supplemental assistance.

In the previous paragraphs, we have discussed sections of S. 1336 which the Sierra Club supports. In closing, we wish to touch upon a matter of major concern, funding flexibility (Section 11). Some safeguards against abuse of Section 11 are currently written into the bill—prior approval of the Regional Administrator, public participation, and the meeting of environmental mandates—but we must underscore the importance of closely monitoring the implementation of this section. Our concern stems from the fact that certain jurisdictions might want to transfer money from politically sensitive programs, such as transportation control planning, to less sensitive ones, such as emergency response preparedness. The Administrator must review each plan carefully for the applicant's ability to meet all of the local environmental goals required by the Congress and EPA. Obviously, EPA must not approve any transfer of funds away from a program if that program would thereby be made weaker or less effective in meeting its objectives. This is where the adequate involvement of citizens will be crucial to the development of a proposed plan that will enhance and not detract from the necessary environmental programs of their state and local governments.

In the initial years of implementing IEAA, the local chapters of the Sierra Club will be interested in reviewing and commenting upon the proposed plans. We feel it is necessary to assist volunteers to participate in the planning process, by providing some funds under this program for transportation and other incidental expenses.

While we view IEAA as a step in the right direction toward integrated environmental planning, we hope it will not be the last. Once again, we urge the Committee to support S. 1136.

SIERRA CLUB
330 Pennsylvania Avenue, S.E.
Washington, D.C. 20003
(202) 547-1141

October 16, 1979

SUGGESTED AMENDMENTS TO S. 1136,
THE INTEGRATED ENVIRONMENTAL ASSISTANCE ACT OF 1979
(May 15, 1979 Printing)

[underlined material is added]:

p. 7, Sec. 5(c):	The Administrator shall establish procedures which assure that the applicant...received, and, (3) includes with the proposed plan a report that describes the public participation measures used to involve citizens in the development of the plan, and also sets forth a program for continuing public participation in the implementation of the plan. Financial assistance for transportation and other incidental costs shall be a part of such public participation programs. Once the Administrator has approved the plan, the applicant shall provide an annual report on the program elements for public participation in the implementation of the plan.
p. 9, Sec. 6(a)(2)(c):	...In the event of disapproval, the Administrator shall notify the applicant in writing within thirty days, unless s/he decides to hold a public hearing on the proposed plan. In which case, the time necessary to meet all legal requirements for notification and other hearing-related procedures shall be added to the thirty-day limitation.

pp. 9-10, Sec. 6(a)(2)(d): The Administrator shall not approve an integrated program plan unless he determines—(4) that the proposed program contains efficient and effective management mechanisms, and sets out provisions for citizen participation in the implementation of the plan and program.

Submitted by:

Rhea L. Cohen
Washington Representative

NATIONAL
ASSOCIATION
OF REGIONAL
COUNCILS

1700 K St., N.W., Washington, D.C. 20006 • Area Code (202) 457-0710

RICHARD C. HARTMAN, Executive Director

October 26, 1979

The Honorable Edmund S. Muskie
Chairman, Subcommittee on Environment
Senate Committee on Environment and Public Works
4204 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

The purpose of this letter is to put into the record the views of the National Association of Regional Councils (NARC) on S. 1136, the "Integrated Environmental Assistance Act of 1979." We understand that the Committee will hold hearings on S. 1136 on November 8, 1979.

NARC is a membership organization of regional councils from throughout the country. It represents over half (350) of the nation's regional councils. In the main, these organizations are areawide or substate agencies of general purpose local governments, and are managed through the elected officials of the member local governments. Most of the regional agencies designated to do air quality, water quality and resource recovery planning required under federal law are members of NARC. Accordingly, our membership has a strong interest in S. 1136.

NARC supports the general principles incorporated in this proposed legislation. For too long, we have attempted to plan and manage our environmental issues on a categorical basis. We do need a broader view and S. 1136 would foster such an objective. At the same time, we have several serious reservations about the pilot program to test the feasibility of comprehensive and integrated environmental planning. These problem areas are listed below together with recommendations for improvements.

S. 1136 emphasizes state government participation in the demonstration projects. The preferred local government and regional agency participation is through the state program. However, there are exceptions. Under Section 8(a), local and regional units may apply directly if the state or states, in case of an interstate regional agency, do not receive integrated assistance or where the Administrator finds inadequate involvement of local or interstate interests. As a final exception, direct participation is permitted where the state(s) concurs.

While it is recognized that the program in its initial stages is a voluntary one, we nevertheless believe local and regional interests should be better protected. As presently cast, local/regional involvement is essentially provided for only in a negative way. The Administrator must find that local interests have been frustrated in the state's integrated planning proposal. Thus, it is possible for a state to be funded without having to adequately consider the vital interest of the local governments and regional agencies. The only recourse available to local governments and regional agencies would be to seek direct involvement. However, this raises an interesting question. Would EPA be anxious to fund a local effort where there has been a breakdown in state and local government cooperation? We believe that Section 8 should be changed to provide for a positive approach. In NARC's opinion, the section should require the state to come to terms with its local and regional units as a condition precedent to a demonstration grant to any interested state. The state should only be allowed to proceed in cases where the Administrator finds that the local and regional units have filed to participate in the program on reasonable terms offered by the state.

Similarly, the state/local consultation requirement in Section 9 should be modified. This provision is stated in general terms; no standard for performance or protection for lack of adequate consultation is provided. We suggest that the Subcommittee restate the local consultation requirements it placed in Section 121 of the Clear Air Act Amendments of 1977. Section 121 is specific and informs the affected parties of the substantive and administrative standards that are required. We cannot emphasize this point too strongly. Presently, EPA regulations dealing with the development of the annual state/EPA agreement on water quality planning require state/local consultation in the formulation of state priorities and work programs. Nevertheless, the meaningful involvement of local and regional interest in this annual process has proved to be the exception - rather than the rule.

In addition to the above central concerns, we offer the following further suggestions to improve the proposal:

- Under Section 8(a)(I) any interested agency in an interstate area would be required to participate in the state integrated program if any one of the states within the area has such a program. This provision is not realistic. The chances are that the state would not desire to involve an interstate agency whose jurisdiction included another state not participating in the program. We believe that interstate agencies should have direct access unless all the states in an area have an approved program plan which adequately deals with the interstate region.

- Finally, we hope that Section 11 is modified to permit local or regional units in the program to transfer up to 30% rather than 20% of categorical planning funds among the various covered programs. NARC's suggestion is based on a simple but significant factor. Areawide agencies usually participate in only two or three of EPA's current planning programs, and at a much lower funding level than provided to the state. Therefore, a higher percentage of transfer of funds should be authorized to give areawide agencies the flexibility they need to deal with local environmental issues.

In summation, NARC concurs with the objectives in S. 1136, but we believe the suggested changes set forth above should be made if the Congress enacts this proposal.

Sincerely

Richard C. Hartman

Richard C. Hartman
Executive Director

RCH/jm

cc: Karl Braithwaite, Cmtee Staff
Phil Cummings, Cmtee Staff
Douglas Costle, EPA
Chris Beck, EPA
Dave Hawkins, EPA

NATIONAL
ASSOCIATION
OF REGIONAL
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1700 K St., N.W., Washington, D.C. 20006 • Area Code (202) 457-0710

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4204 Dirksen Senate Office Building
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best copy available

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Richard C. Hartman
Executive Director

RCH/jm

cc: Karl Braithwaite, Cmtee Staff
Phil Cummings, Cmtee Staff
Douglas Costle, EPA
Chris Beck, EPA
Dave Hawkins, EPA

national
association
of regional
councils

1700 K St., N.W., Washington, D.C. 20006 • Area Code (202) 457-0710
RICHARD C. HARTMAN, Executive Director

May 7, 1979

Attached are recommended short-term and long-term policies formulated by NARC Policy Committees and submitted to the Board for their review and approval.

– LEAA Resolution Approved by Board 5/1/79

Short-term policies, which are generally in effect for two years, are to provide guidance to the NARC staff in dealing with current legislative or administrative actions. Such policies, which have as their base existing NARC "Policies for Regional Action," need only Board approval to be implemented.

Long-range policies, on the other hand, are subject to the approval of the membership since they presumably alter existing "Policies for Regional Action." Such policies, which have no sunset clause, are presented to the Board sitting as the Resolutions Committee. The Board then makes its recommendations on these long-range policy revisions to the membership who vote to approve or disapprove them at the yearly business meeting.

1740 Broadway, New York, N.Y. 10019 (212)245-8000

AMERICAN LUNG ASSOCIATION
The "Christmas Seal" People

March 29, 1979

William Drayton
Assistant Administrator for
Planning and Management
U.S. Environmental Protection Agency
PM-208
401 M Street, S.W.
Washington, D.C. 20460

Dear Mr. Drayton:

We are deeply grateful to you for taking time in your busy schedule to meet with the National Air Conservation Commission on Thursday. Yours and Daphne's discussion of the Integrated Assistance Act was very interesting and enlightening.

The Commission discussed the proposed legislation at length. While we recognize many good points in the proposal, a number of questions were raised with regard to the funding and the mechanism for determining the levels of assistance. In view of these concerns, the NACC agreed that it supports the concept of the proposed Integrated Environmental Assistance as an opportunity for greater flexibility and local choice in the use of federal categorical funds for state and local environmental programs.

In view of the Commission's priorities related to the Clean Air Act and its implementation, we may not be able to actively support the legislation at this time.

Again, thank you very much for meeting with us.

Sincerely,

Jeanne Malchon
Jeanne Malchon, Chairman
National Air Conservation Commission

es
cc: Daphne Gemmill

File SERC

The Council of State Governments

3384 Peachtree Road, N.E., Suite 610, Atlanta, Georgia 30326 (404) 266-1271

SOUTHERN OFFICE

July 31, 1979

Memorandum

TO: All Members, SERC Executive Committee

FROM: Gould Hagler, Secretary to SERC GH

RE: Resolutions Adopted at 1979 Annual Meeting

The attached resolutions were adopted on June 22 in Baltimore. Those urging Congressional action have been sent to the proper Senators and Congressmen, along with cover letters from Chairman Saxton. The resolution expressing SERC's appreciation has been sent to all those mentioned in the resolution.

GBH/nb

RESOLUTIONS OF THE SOUTHERN ENVIRONMENTAL RESOURCES CONFERENCE ADOPTED AT ITS ANNUAL MEETING IN BALTIMORE

JUNE 20 - 23, 1979

(RESOLUTION 1)

THE INTEGRATED ENVIRONMENTAL ASSISTANCE ACT

WHEREAS, at a time when all levels of government are concerned with improving efficiency in government, the National Governors' Association (NGA) has developed a supportive position on the proposed Integrated Environmental Assistance Act, and advised various committees of Congress of its support of this type of legislation; and

WHEREAS, proposed legislation has now been introduced to implement an integrated environmental assistance program; and

WHEREAS, many states could conduct their environmental programs more cost-effectively if a single integrated federal grant were available to assist in these programs; and

WHEREAS, the proposed legislation would authorize a voluntary approach to the integrated environmental program grants process and result in improved efficiency in many states:

NOW, THEREFORE, BE IT RESOLVED that the Southern Environmental Resources Conference urge Congress to enact such legislation so that those states desiring such opportunity, including some flexibility to shift some funds between programs, will be able to operate under an integrated federal grant.

NACO

Draft
3/14/79

Resolution on Consolidate Environmental Assistance

Whereas, the Administration has proposed legislation to consolidate federal assistance to state and local governments for clean air, water quality management, solid waste, toxic substances, noise control, radiation, and pesticides; and

Whereas federal clean air, water quality, and solid waste management legislation mandates local implementation of controls on air and water pollution and the closing of open dumps;

Whereas, the proposed legislation would provide a greater opportunity for state governments to unilaterally decide to allocate to the state greater portions of assistance under section 208 of the Clean Water Act, section 105 of the Clean Air Act, and subtitle D of the Resource Conservation and Recovery Act at the expense of assistance to local implementation; and

Whereas, the Environmental Protection Agency has agreed with a number of states to dedesignate local 208 agencies and withdraw funds from local agencies; and has mandated that very little if any federal assistance be passed through to local governments under RCRA;

Be It Resolved that NACo urges Congress to enact consolidated environmental assistance legislation which;

1. encourages integrated environmental planning, and management which is implementation oriented by unites of general local government, and authorizes an appropriation for that purpose;

2. requies that a specified minimum amount of assistance be provided directly or by mandatory pass through to local governments for environmental management;

3. requies that states provide assistance to local governments from federal or state funds commensurate with federal regulatory or program mandates imposed on them, and commensurate with the amount of management responsibility delegated to them;

4. requires states to establish effective procedures for local government participation in planning and in the division of responsibilities and funds; provides for joint determination of key issues between the state and local governments; and requires EPA to enforce such procedural safeguads;

5. authorizes local governments to apply directly to EPA for any program covered by the consolidated legislation if such authority exists now, if the state does not provide sufficient assistance to meet mandated responsibilities or is not meeting procedural requirements; and

6. establishes a goal to shift an increasing amount of federal assistance to local government in recognition of implementation responsibilities for environmental programs.

National Conference of State Legislatures

Office of State Federal Relations

444 North Capital Street, N.W.
2nd Floor
Washington, D.C.
20001
202/624-5400

President
George B. Roberts, Jr.
Speaker, New Hampshire House of Representatives

Executive Director
Earl S. Mackey

November 8, 1979

Mr. Karl Braithwaite
Committee on Environment and Public Works
Subcommittee on Environmental Pollution
U.S. Senate
6231 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Karl:

Please find enclosed comments that the National Conference of State Legislatures wished to make in support of "Integrated Environmental Assistance Act of 1979" (S. 1136).

We hope you will hold hearings on this bill and consider our comments. I look forward to working with you.

Sincerely,

Joan

Joan Warren
Staff Director, Natural Resources

Carey

National Conference of State Legislatures

Office of State Federal Relations

444 North Capitol Street, N.W.
2nd Floor
Washington, D.C. 20001
202/624-5400

President
George B. Roberts, Jr.
Speaker, New Hampshire House of Representatives

Executive Director
Earl S. Mackey

November 7, 1979

The Honorable Edmund S. Muskie
Chairman, Committee on Environment and Public Works Subcommittee on Environmental Pollution
U.S. Senate
6231 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Muskie:

I would like to submit comments for the record on behalf of the National Conference of State Legislatures regarding S. 1136, "Integrated Environmental Assistance Act of 1979."

The Conference has long supported the concept of "grant consolidation" as a possible means to achieve financial savings, reduce administrative burdens, and provide greater coordination in obtaining overall program goals. NCSL has particularly been supportive of such efforts in the environmental area. S. 1136 represents a good initial step toward the integration of EPA environmental programs. The proposed legislation would allow state and local policymakers greater authority and flexibility over the use of federal monies for priority environmental problems within their respective jurisdictions, if they so desire.

As the representative of the nation's 7500 state legislatures, the Conference is not as concerned with some of the more specific environmental programs called for in the Federal Water Pollution Control Act, the Clean Air Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act, among others, as with the overall attainment and maintenance of adequate public health and safety. At the same time, we are very aware of the heavy financial burden that many of these programs and problems place on state governments. We are also only too aware that the states are being delegated the administrative, enforcement and financial responsibility for meeting many of the national goals established by Congress and interpreted by the U.S. Environmental Protection Agency—with increasingly limited federal monies. Therefore, we urge that state governments should be allowed greater flexibility over the uses to which these funds are put, in accordance with an integrated state plan.

Many arbitrary programmatic boundaries at federal, state and local levels of government have resulted from the existing federal statutes. For a state legislator concerned about an abandoned, leaking chemical dump site, it makes little difference whether funds to alleviate this problem are appropriated under Section 208 of the Federal Water Pollution Control Act (water quality management), under Section 3011 of the Resource Conservation and Recovery Act (development and implementation of authorized State hazardous waste programs, or Section 1421 and 1443 of the Safe Drinking Water Act (ground water protection and supervision of the state public water supplies). His or her concern is finding a solution for the problem and raising the revenues to pay for that solution.

Because of the increasing programs and financial responsibilities of state governments in environmental management, the Conference urges the Subcommittee to consider the following addition (page 10, lines 5-7) to Section 6(e) "The Administrator shall not award integrated assistance to a State unless the Governor [in consultation with the state legislature] has signed the assistance application containing the integrated program plan." The involvement of the state legislatures in this process could establish a level of commitment and understanding to the continuation of these programs which that body might not otherwise have.

Section 8 (pp. 12-13) would authorize local governments to receive direct integrated program funding under certain conditions. While we do not want to raise issues here that would involve changes to existing statutes, we would like an added condition to further safeguard any state comprehensive plans. After Section 8 (iii), the Conference would like to see added: Section 8 [(iv) the proposed activities are consistent with the existing State plan or plans developed under laws enumerated in Section 4(4)A.]

In conclusion, the Conference supports the passage of the "Integrated Environmental Assistance Act of 1979" (S. 1136). We see this as a limited, pilot program which would allow the U.S. Environmental Protection Agency and state governments to experiment with a more integrated approach to environmental problems as well as give the states greater flexibility to tackle the problems as they differ among the states.

I thank you for your serious consideration of our comments. Please do not hesitate to contact me or other members and staff of the National Conference of State Legislatures, if you would like additional comments or further elaboration.

Sincerely,

John Scully

Representative John Scully, Montana
Chairman of the NCSL Natural Resources
Committee

[illegible]

CONFERENCE
OF
STATE SANITARY ENGINEERS

[illegible]
Executive Secretary
[illegible]
[illegible]
Telephone [illegible]

Officers and Executive Board

Chairman
[illegible]
Columbia, South Carolina

Chairman-Elect
[illegible]
[illegible]

Secretary-Treasurer
[illegible]
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First Vice-Chairman
[illegible]
Trenton, New Jersey

Second Vice-Chairman
[illegible]
Montgomery, Alabama

Past Chairman
[illegible]
Richmond, Virginia

State Department of Health
Office of Environmental Health
Services
1800 Washington Street, E.
Charleston, West Virginia 25305

May 18, 1979

Mr. David Johnson
National Governor's Association
Hall of the States
444 North Capitol Street
Washington, D. C. 20001

Dear Dave:

In accordance with the agreement made at our conference with ASWIPCA, STAPPA and EPA representatives, the proposed Integrated Environmental Assistance Act was carefully reviewed by the Conference of State Sanitary Engineers during its annual meeting held in Denver, Colorado on May 8-11, 1979. We were very pleased to have with us during our deliberations Regional Administrator Alan Merson and Harvey Pippen, Headquarters, EPA, as well as top program managers in the EPA Water Supply Branch. A very fruitful interchange was held between Conference members in its executive session on May 11, 1979.

I am very pleased to forward to you the enclosed copy of the CSSE statement which expresses its concerns relative to some of the provisions in this act.

Sincerely yours,

Bob

R. G. McCall, Chairman
Water Supply Committee

RGM/bjw

Enclosure

CONFERENCE
OF
STATE SANITARY ENGINEERS

Kenneth M. Thompson
Executive Secretary
[illegible]
Troy, New York 12180
Telephone (518) 273-7917

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First Vice-Chairman
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Second Vice-Chairman
W. T. Willis
Montgomery, Alabama

Past Chairman
Oscar H. Adams
Richmond, Virginia

POSITION STATEMENT

INTEGRATED ENVIRONMENTAL ASSISTANCE BILL

CONFERENCE OF STATE SANITARY ENGINEERS

May 10, 1979

Any effort to increase the flexibility of the states in implementing federal programs, on a voluntary basis, is conceptually beneficial. However, the Conference of State Sanitary Engineers views the present Integrated Environmental Assistance bill with some question, in view of the problems listed below.

1) The bill depends for its effect on the USEPA regulations which will be promulgated to implement it. It is conceivable that the regulations will help achieve the stated objectives. On the other hand, it is also possible that the regulations may have the opposite effect, forcing the states into reorganizational changes and other steps which will benefit only USEPA administration of the proposed act, but will operate detrimentally to the interests of the affected states. We therefore recommend that this possibility be considered, and the language of the bill be changed to prevent, or at least minimize, the possibility of such an undesirable occurrence. The Act should require state participation in developing such regulations. The state should be free to determine its own internal organization and administrative procedures.

2) The time schedule for the submission of an integrated program grant application and its review by the regional office is such that, if it is disapproved and the state must then reapply for the separate categorical grants, the categorical grant applications will be late. Provisions should be made under these conditions to waive any regulatory penalties for late submission which may be applicable.

3) As the system is set up, a draft program plan is submitted by June 1, after which the regional administrator negotiates the plan program accomplishments for an August 1 final submission. It must be assumed that the negotiations will be successful for the August 1 submission to be made. Therefore the authority of the regional administrator to subsequently conditionally approve or disapprove the plan is an unnecessary step. Furthermore, some procedure for appeal of the regional administrator's decisions during the negotiating process must be available. This, however, may be part of the regulations, although it may be more desirable to have it in the bill.

4) Section 6 (a), in the paragraph following item (7), implies that national objectives are the most important constraints. The particular needs of the individual state must be the primary consideration if the goals of the program are to be met. Sufficient flexibility must be available to the state to work beyond the national objectives when it is necessary to further the aims of the program.

5) In spite of all hopes to the contrary, it is obvious that, at least in the first years of operation, the consolidated grant program under this bill will increase, rather than decrease, the amount of paperwork. It is consequently recommended that the bill contain a requirement that other reports now requested by the USEPA be re-examined to delete all but the minimum needed for proper USEPA oversight of state programs.

6) The stated aim of the Administration's authority to veto transfers of categorical grant funds is to prevent weakening or destruction of a new program. Rather than have this power, which in fact removes flexibility from the states, it is, in our opinion, more desirable to have a provision in the bill preventing transfers of funds from a new program for the first five years following its implementation. If it cannot then survive loss of 20% of its funds, it has defects which should be re-examined. Furthermore, the transfer, including state funds, when allowed, must be in timely fashion so that it can be built into the normal budgetary process of the state. If this is not done, state legislative action, which may be unavailable, will be needed for transfer of the funds. This becomes more important when allotments are not released on time. There must be some provision, such as a simplified carry-over process, which will alleviate this problem.

7) Section 8 (a) (2) should have the words, "after consultation with the state or states," inserted after the word "Administrator," so that it reads: "Directly from the Administrator after consultation with the state or states, if:"

8) Section 9 of the bill requires that provision be made for consultation with local governments. This is so broad that it needs more interpretation in the bill. As stated, it is impossible to determine the extent of consultation required, and therefore whether it will forward the aims of the bill or merely add red tape and expense. We suggest that this be clarified, while still maintaining a reasonable level of participation.

9) Section 10 of the bill appears to remove any requirement for local funding or matching funds, which is inequitable. Many local government agencies now fund, in part of wholly, their environmental activities. There should be a requirement for local match of federal funds where applicable. The state should not have to provide all non-federal funds.

10) While it is obvious that there be accountability for federal funds as described in Section 12, it is impossible in many states to dictate to the lower levels of government what their bookkeeping procedures must be. Therefore, under Section 12 of this bill, it is at least implied that these local governments cannot receive grant funds. Unless this is the actual intent, this situation should be remedied.

11) It would seem more equitable to have competition for incentive funds on a regional rather than national basis, since each regional office is in a better position to evaluate the comparative programs of its states than can be done on a national basis. It is therefore recommended that these funds be allocated to the regions, with any unexpended funds available for other states in the region where the funds have not been obligated.

12) State budgetary process are such that the proposed $25,000,000 incentive will be unavailable to many states. The budgetary and legislative processes in those states are such that, unless the incentive grant can be carried over, it will expire before state authorization for its use is given. Furthermore, many worthwhile projects, which can be completed with the financial resources available from this grant, cannot be brought past an early stage within the time frame of one year. It is therefore suggested that an incentive grant, although given in one year, can be carried over for not more than five years.

13) The new maintenance of effort requirements do not take into account reduction in federal funding. If the match were to be made on a percentage basis, rather than a fixed state dollar amount, reduction in state funding will be possible, although not mandatory, if federal support is reduced. Possibly other more satisfactory solutions to meet this deficiency can be worked out.

14) Target dates mandated in Federal legislation historically have been unrealistic. This bill is no exception. It will be impossible for a bill to be introduced in May, 1979, have 180 days for promulgation of the Federal regulations, and still have it effective for FY 1980. Assuming that all steps are taken according to plan, the bill could not possibly be enacted in time, since the grant process starts in July, which is only 60 days from the date of introuduction of the bill. Even assuming that the regulations need only be promulgated by October 1, 1979, 180 days before that date is May 1, which has already passed. Obviously the earliest this bill could be effective is FY 81.

Because of the need to have Congress study the above comments and resolve the problems they present, the Conference of State Sanitary Engineers respectfully recommends that no hasty action be taken on this bill, but that it be given the opportunity for detailed study and hearings by the applicable congressional committee, so that the resulting act will be practicable, reasonable, and advance the environmental programs of the states and of the nation.

CITIZENS ADVISORY COMMITTEE
NEW YORK 208/WATER QUALITY MANAGEMENT PROGRAM
40 Worth St. New York, N.Y. 10013/Telephone: (212) 566-3730, Room 902

PAUL DANIELS, Chairperson
MARGARET KOCHER, *Staff Director*

5 November 1979

Mr. Karl Braithwaite, Staff Director
Subcommittee on Environmental Pollution
Committee on Environment and Public Works
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Braithwaite:

The New York City 208 Citizens Advisory Committee wanted to testify on S 1136 at the October hearings, but lack of funds to bring our representatives to Washington limits us to the written testimony which follows.

The New York City 208 Citizens Advisory Committee is a diverse group of people concerned with water quality in New York City. Its 40-member Governing Board is made up of representatives of business, the professions, real estate, labor, environmental groups, good government organizations, local civic organizations and the Community Boards of each borough, which has worked with 208 for the past three years.

Although organized around water quality concerns, the CAC is the only citywide environmental citizens advisory committee, and as such has been involved also in Land Use, Solid Waste, and, on occasion, Air Quality issues. From this experience we understand the importance of comprehensive and integrated environmental planning. We go further to say that planning should extend beyond acts under the aegis of EPA to include other programs such as Coastal Management.

Our concerns on this score are documented in CAC positions on the 208 Plan, Institutional Arrangements, Public Participation and the NYS/EPA Agreement, which are covered in the five enclosures.

From a citizen's perspective, it is very difficult to react meaningfully to a multiplicity of separate programs when close analysis reveals that the issues involved are inextricably interrelated. We commend EPA for its increasing recognition of interdependence, for example, its recent seminars to promote understanding of the interrelationship of water supply and wastewater management.

Public participation has also been increasingly recognized as essential to planning and implementation of many programs. But the effectiveness of participation has continually been restricted by lack of staff or funding to service volunteer citizen committees and to carry on the outreach efforts citizens deem important. The integrative function of public participation should be supported through automatic and independent funding, rather than the fragmentation of funding, project by project, which promotes confusion and competition. We caution that integration should not detract from individual programs but should be designed to enhance program analysis, management and coordination.

Finally, public participation and interaction with state and local government should not be written out in detail by Washington, but should be designed at the local level with citizen input.

We would appreciate having a copy of the Committee's recommendations as a result of its hearings.

Paul Daniels

Chairperson

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
4100 CHAIN BRIDGE ROAD
FAIRFAX, VIRGINIA 22030

OFFICE OF THE COUNTY EXECUTIVE

September 10, 1979

Mr. Douglas M. Castle
Administrator
Environmental Protection Agency
Washington, D. C. 20460

Dear Mr. Castle:

I am writing to convey Fairfax County's comments on the proposed Integrated Environmental Assistance Act of 1979 (S. 1136).

While we feel the intent and general thrust of this legislation are excellent, we think the proposal can be improved, and we offer three recommendations. First, criteria development for supplementary assistance awards should include the participation of state and local governments. This could be achieved by the use of an advisory panel of grant recipients or by some other means. Second, supplementary assistance award decisions also should include similar state and local government participation. We believe this is particularly important for the program's early phases so that both the EPA and grant recipients have a voice in selecting a range of integrated program plans. Finally, assignment of EPA personnel to program operators and assistance level reduction for such assignment should require the concurrence of the government administering the integrated plan.

Thank you for considering our views in this matter. If you have any questions, please contact us.

Sincerely,

J. Hamilton Lambert
Acting County Executive

cc: Mr. Alexander Greene, Director
Grants Administration Division
Environmental Protection Agency
cc: Board of Supervisors

79 SEP 13 AM 5:33

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 1 1979

Honorable Harley O. Staggers
Chairman, Committee on Interstate
and Foreign Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request of June 15, 1979, for the views of this Office on H.R. 4213, a bill "To authorize a flexible environmental program of integrated financial assistance to States and local governments to plan, manage, and implement abatement and control strategies in a more efficient and effective manner."

H.R. 4213 is an Administration proposal submitted to the Congress by the Environmental Protection Agency on April 26, 1979. We urge prompt and favorable consideration of H.R. 4213, enactment of which would be in accord with the program of the President.

Sincerely,

(Signed) James M. Frey

James M. Frey
Assistant Director for
Legislative Reference

ENVIRONMENTAL PROTECTION AGENCY

ADVISORY
COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON, D.C. 20575

February 28, 1979

Alexander J. Greene, Director
Grants Administration Division
U.S. Environmental Protection Agency
Washington, D.C. 20460

Dear Alex:

Many thanks for your letter of February 13 and the enclosed copy of EPA's new legislative proposal. I have reviewed the latter and the accompanying section-by-section analysis and, in general, find it to be imaginative, astutely drafted, and, hopefully, something that will survive on the Hill. I have only a few minor problems with it:

— Section 5(c) is not all that clear (although the explanation in the section-by-section analysis helps).

— Section 8, relating to state/local consultation, is pretty cryptic and might well be fleshed out a bit.

— The maintenance of effort provision (section 12(c)) might be reworked; to use simply recipient-based fiscal year outlays would raise questions in the minds of many--two or three years might be more appropriate; moreover, the Administrator will be under severe pressure if the waiver proviso in this subsection is not beefed up some; OMB, I am sure, will raise even more strident comments on this last issue.

Keep up the good work. With all best wishes.

Cordially,

David B. Walker
Assistant Director

DBW/lss

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 26 1979

THE ADMINISTRATOR

Honorable Thomas P. O'Neill, Jr.
Speaker of the House
 of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed is our proposed bill, the "Integrated Environmental Assistance Act of 1979."

This bill represents a flexible approach to integration of the Environmental Protection Agency's (EPA's) media-specific environmental assistance programs. As you know, EPA was originally created to integrate environmental programs and concerns; however, media-specific legislative constraints have limited our ability to deliver funds to the States in an integrated, comprehensive fashion. We have made attempts to administratively integrate our assistance programs and, with a few exceptions, have found this administrative method unsatisfactory.

The bill is suggested to enable us to achieve increased results in terms of improved State environmental programs, better planning at all levels of government, and more thorough implementation and evaluation of environmental programs.

The major features of the bill are as follows:

- States, on a voluntary basis, may combine any two or more categorical programs into a single integrated environmental plan.
- The bill incorporates current funding formulas, and establishes supplemental assistance.
- Award of integrated assistance is based on adequate coverage of program objectives, provision of funding for local governments, and assurance of sound and efficient management.

- Applicants' flexibility to shift funds can be as high as 20% of the level provided under the categorical approach.
- Programs may vary based on need and capability, in terms of programs and functions included and degree of flexibility permitted.

Other features include:

- Assistance funds may be used for any activities within EPA's mandate, whether or not there is currently assistance authorization.
- Public participation is required in development of States' integrated environmental program plans.
- Integration would be authorized as a five-year program, phased in, beginning in FY 1980. Not more than 15 States and 25 local governments would be selected competitively to participate in the program in FY 1980, up to 30 States and 50 local governments in FY 1981, and thereafter other State, local and interstate agencies may participate in the program.
- Local jurisdictions would be supported by State pass-through or, as a back-up, direct EPA grants. Local integrated planning would thus be encouraged where appropriate.

We see the incentive element of the proposal--which would be used to support integration of program planning and operations--as an extremely important component. Furthermore, we are confident that it minimizes any possibility of adverse impacts on achieving our statutory mandates. We have included incentive funding of $25 million for integrated assistance in our FY 1980 budget.

We recommend that the draft bill be referred to the appropriate Committee for consideration and that it be enacted. A section-by-section analysis of the provisions of the bill is also included.

The Office of Management and Budget advises that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely yours,

Douglas M. Costle

Douglas M. Costle

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 26 1979

THE ADMINISTRATOR

Honorable Walter F. Mondale
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

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The Office of Management and Budget advises that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely yours,

Douglas M. Costle

Enclosures

A BILL

To authorize a flexible environmental program of integrated financial assistance to States and local governments to plan, manage, and implement abatement and control strategies in a more efficient and effective manner.

Be it enacted by the Senate and House of Representatives in Congress Assembled, That

SHORT TITLE

Section 1. This Act may be cited as the "Integrated Environmental Assistance Act of 1979."

DECLARATION OF POLICY

Sec. 2. The Congress, recognizing the interrelationships of environmental problems and solutions addressed under the laws administered by the U.S. Environmental Protection Agency, and recognizing the interaction of environmental problem-solving with other social and economic issues affecting the quality of

human life, declares that it shall be the policy of the Federal Government, in cooperation with state and local governments, to promote comprehensive approaches to management of environmental programs.

OBJECTIVE

Sec. 3. The objective of the Act is to increase the substantive effectiveness and management efficiency of State and local assistance programs administered by the Environmental Protection Agency by (1) fostering recipient initiative, and (2) encouraging flexibly integrated, simplified, and consistent program planning and implementation.

DEFINITIONS

Sec. 4. As used in this Act--

(1) The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(2) The term "assistance" (as used in this Act) means a grant or cooperative agreement as determined by the Administrator under the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501, *et seq.*).

(3) The term "base fiscal year" means, for each covered program, the fiscal year prior to the year in which the covered program is included under an approved integrated program plan.

(4) The term "covered program" means any environmental program (other than the programs of assistance for construction of waste water treatment facilities authorized by section 201 of the Federal Water Pollution Control Act, as amended) for which the Administrator has responsibility, and which permit or require environmental programs on the part of States, local governments, or interstate agencies, including programs under:

(A) Federal Water Pollution Control Act, as amended (33 U.S.C. 1151, _et seq._).

(B) Clean Air Act, as amended (42 U.S.C. 7401, _et seq._).

(C) Title XIV of the Public Health Service Act, as amended (Safe Drinking Water Act, 42 U.S.C. 300f, _et seq._).

(D) Solid Waste Disposal Act, as amended (42 U.S.C. 6901, _et seq._)

(E) Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(F) Federal Insecticide, Fungicide, and Rodenticide Act, as amended, (7 U.S.C. 136, et seq.).

(G) Noise Control Act, as amended (42 U.S.C. 4901, et seq.).

(H) Atomic Energy Act, as amended (42 U.S.C. 2200, et seq.).

(I) Other provisions of the Public Health Service Act, as amended (42 U.S.C. 201, et seq.).

(J) Functions transferred by Reorganization Plan No. 3 (5 U.S.C. Reorg. Plan of 1970, No. 3).

(5) The term "integrated assistance" means a single grant or cooperative agreement awarded under this Act for covered programs in lieu of two or more separate, individual assistance awards made pursuant to the Acts enumerated in paragraph 4 above.

(6) The term "integrated program plan" means a document, submitted under section 5 of this Act as part of an assistance application, which sets forth a plan of activities and related expenditures to carry out the objectives of this Act and the covered programs which are included.

(7) **The term "interstate agency" means any agency of two or more local governments in different States, or any agency established by two or more States, with authority to receive assistance under a covered program.**

(8) **The term "local government" means a city, town, borough, county, parish, or other public body created by or pursuant to State law, or representative organizations of such bodies (such as Councils of Governments), or an Indian tribe or authorized Indian tribal organization or Alaska Native Village, or any other public entity eligible to receive assistance under a covered program.**

(9) **The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.**

(10) **The term "supplementary assistance" means funds awarded to integrated assistance recipients, in addition to those funds available under the covered programs, to support specific projects generally of a non-recurring nature in accordance with the policies and award criteria set forth in section 13 of this Act.**

INTEGRATED PROGRAM PLAN

Sec. 5.(a) In situations where a program establishes a complex of environmental activities, time schedules and required accomplishments which over-lap programs or do not fit neatly under any single covered program, the Administrator may award assistance to support activities which will meet problems and manage such programs more efficiently and effectively than assistance under a single program (or assistance under two uncoordinated programs). Such awards may include but are not limited to multidisciplinary inspections, enforcement and monitoring activities defining and dealing with the cross-program consequences of activities under covered programs; unifying regulations and/or procedures across covered program lines; coordinating time deadlines across program lines; innovative approaches to solving new environmental problems which cut across program lines; consolidating and integrating multiple permits into a single permit or permit process; and similar activities which constitute or reflect coordinated actions across program lines.

(b) Each State or other applicant for integrated assistance under this Act shall:

(1) Submit an integrated program plan as part of its assistance application, which addresses

the objectives of not less than two covered programs; ensures consistency with paragraph (a) and the objectives of this Act; and represents an integrated approach to planning, development, implementation, and/or improvement of the covered programs; and

(2) Provide for the coordination and administration of each integrated program plan by a single agency.

(c) The Administrator shall establish procedures which assure that the applicant (1) encourages and assists public participation in the development of a proposed integrated program plan and (2) in developing the final plan for submission, gives appropriate consideration to the public comments received.

APPROVAL OF INTEGRATED PROGRAM PLAN

Sec. 6. (a)(1) The Administrator shall establish requirements governing his approval of an integrated program plan and award of integrated assistance. These requirements shall seek --

(A) To increase the substantive effectiveness and management efficiency of covered environmental programs by encouraging comprehensive integrated environmental planning, implementation and management by the U.S. Environmental Protection Agency, the States, and local governments, and to do so in a flexible, voluntary manner;

(B) To encourage and allow Federal, State, and local environmental agencies to refocus a portion of their resources on problems and priorities that cut across existing statutory assistance categories; as they are recognized;

(C) To encourage and allow Federal, State, and local environmental agencies to test and start up new approaches to solving environmental problems that cut across existing assistance categories;

(D) To provide incentives to encourage State and local governments to assume greater authority and responsibility;

(E) To improve and simplify the administration of State and local assistance by reducing paper work, duplication of effort and reporting requirements;

(F) To simplify environmental reporting, permitting, and other requirements affecting the public where possible; and

(G) To promote Federal consistency in decision-making.

(2) Such requirements, consistent with national objectives, shall promote applicant discretion in developing a program to meet its particular environmental needs. In reviewing applications the Administrator shall also consider the degree to which the covered programs (i) routinely consider or are developing the capacity to consider the effects of one program on the other(s) and (ii) have or are developing supporting common data bases and planning and evaluation processes where appropriate.

(b) Integrated assistance shall not be used to expand a recipient's activities beyond a scope which the Administrator determines is consistent with the purposes of the covered programs included under the recipient's integrated program plan.

(c) The Administrator shall complete review of the applicant's proposed plan in a timely fashion (including portions related to fund transfers under section 10) and may approve it in whole or in part. In the event of disapproval, the Administrator shall notify the applicant in writing within 30 days. Notwithstanding any time limitation arising from any provision of law or regulation affecting the covered programs, an applicant shall have not less than 60 days from the day of receipt of a notice of disapproval to make application for categorical assistance.

(d) The Administrator shall not approve an integrated program plan unless he determines:

(1) that the objectives of this Act and of the covered programs are adequately addressed therein;

(2) that the requirements he promulgates pursuant to section 6 of this Act have been met;

(3) that the proposed program plan adequately considers cross-program consequences; and

(4) that the proposed program contains efficient and effective management mechanisms.

(e) The Administrator shall not award integrated assistance to a State unless the governor has signed the assistance application containing the integrated program plan. The Administrator shall not award assistance to a general purpose unit of local government unless the chief executive officer of that unit of government has signed the assistance application containing the integrated program plan.

AUTHORITY; LIMITATIONS

Sec. 7. (a) From sums appropriated under the covered programs and section 17 of this Act, the Administrator may award integrated assistance in accordance with integrated program plans approved under section 6 to States, local governments and interstate agencies to enable them to carry out the objectives of this Act and of covered programs.

(b) Award of integrated assistance in one fiscal year shall not obligate the recipient to seek or the Administrator to award such integrated assistance in any subsequent fiscal year. The Administrator shall not renew an integrated assistance award unless he determines, based on his evaluation of the recipient's performance and its current proposed program, that the recipient's program has and will effectively serve the purposes of this Act and the covered programs included in its integrated program plan. In making his evaluation, the Administrator shall consider:

(1) the extent to which actions in covered programs were considered jointly and made consistent in a manner which is likely to enhance environmental quality;

(2) management efficiency;

(3) savings to the public;

(4) likelihood of effective implementation;

(5) replicability in other State or local programs;

(6) the extent to which integration was fostered by moving related covered programs onto common schedules;

(7) the extent to which overall assessments of the combined impacts of covered programs are considered in an integrated fashion; and

(8) value in helping the covered programs address new environmental problems or priorities.

(c) Integrated and supplementary assistance shall not be used for construction, except that such assistance may be used for preliminary facility and site planning where consistent with the requirements of a covered program included under the integrated program plan.

(d)(1) For fiscal year 1980, the Administrator shall develop and publish criteria consistent with the policy and objectives of this Act for competitive selection of not more than 15 States and 25 local governments for participation in the program authorized by this Act.

(2) The Administrator shall assess the program during the year to determine if the policy and objectives of this Act are being met. If the Administrator determines it is appropriate, he may allow participation of up to 30 States and 50 local governments for fiscal year 1981.

(3) During fiscal year 1981 the Administrator shall make a second assessment of the program and shall submit an interim report to the Congress before June 30, 1981. Thereafter, if the Administrator determines the program is achieving the objectives of the Act, he may open the program to other eligible States, local governments, and interstate agencies.

ASSISTANCE FOR LOCAL GOVERNMENTS AND INTERSTATE AGENCIES

Sec. 8. (a) A local government or interstate agency may receive integrated assistance in the following ways:

- (1) By pass-through under an approved integrated State program plan (in the case of an interstate agency, under one or more such plans); or
- (2) Directly from the Administrator, if:
  - (i) the State or States in which the local government or interstate agency lies do not receive integrated assistance; or
  - (ii) such State or States do not, in the judgment of the Administrator, provide adequately for participation of the local government or interstate agency; or

(iii) such State or States otherwise concur.

(b) In addition, integrated assistance under Paragraph (a) may include funds from a covered program of assistance to States under which the local government or interstate agency is otherwise ineligible, provided the affected State or States concur and the Administrator determines that award would be consistent with the purposes of the covered program.

(c) Nothing in this section shall be construed to require a local government or interstate agency to seek integrated assistance in lieu of categorical assistance for which the local government or interstate agency is otherwise eligible.

STATE/LOCAL CONSULTATION

Sec. 9. In developing its integrated program plan, the State shall provide for consultation with local governments.

FUNDING FOR LOCAL PARTICIPATION

Sec. 10. To the extent a local government is given responsibility by a State for activities under the State's integrated program plan, the Administrator shall assure that the plan provides funding from State or Federal funds.

FUNDING FLEXIBILITY

Sec. 11. In developing its integrated program plan, an applicant may propose to transfer funds among the various covered programs included under such plan, except that the applicant may in no event propose to transfer from any covered program an amount in excess of 20 per centum of the Federal sum allocated in that year for that covered program and the equivalent portion of non-Federal project funds.

ACCOUNTABILITY

Sec. 12. The Administrator may establish procedures under which accountability for expenditures (including expenditure of non-Federal funds) will be related to a recipient's approved integrated program plan, in lieu of accounting for expenditures by program areas.

SUPPLEMENTARY ASSISTANCE

Sec. 13. (a) Availability. Recipients of integrated assistance shall be entitled to compete for supplementary assistance from funds appropriated under the authority of section 17. Ten percent of funds appropriated under section 17 shall be set aside for such supplementary assistance for local government participants.

(b) Criteria for award. The Administrator shall develop and publish criteria for award on a competitive basis of supplementary assistance under paragraph (a), consistent with the policies and objectives of this Act. At a minimum, such criteria shall include the following considerations:

(1) the extent to which the application reflects an integrated approach to environmental problem solving;

(2) the extent to which the proposed activities would use or lead to development of integrated management processes which are innovative and have potential for replicability;

(3) the likelihood of success; and

(4) the extent to which the proposed program provides for integration of environmental efforts with related energy, transportation, and other social and economic activities.

ADMINISTRATIVE PROVISIONS

Sec. 14. (a) Unobligated sums. Of the sums otherwise available to a recipient under this Act, any unobligated sums (including unobligated allotments and sums later deobligated) shall be available for award to other participants in the program under this Act or shall be used to otherwise accomplish, through contract or other appropriate means, the objectives of this Act and the covered programs, in accordance with regulations of the Administrator.

(b) Maintenance of Effort.

(1) No integrated assistance shall be awarded in any fiscal year unless the Administrator determines that a recipient will expend in that fiscal year, from non-Federal funds for other than non-recurrent costs, an amount which is not less than the amount expended for such purposes during the base fiscal year. Notwithstanding this provision, the Administrator may award integrated assistance if he determines that a reduction has resulted from a general non-selective reduction in expenditures in programs of executive branch agencies of the applicable unit of government.

(2) The provision in paragraph (1) shall be used in lieu of other matching and maintenance-of-effort requirements of the covered programs.

If a recipient resumes separate assistance for a covered program, the recipient shall be held to the matching and maintenance-of-effort requirements (as modified by law or regulation during the period of integrated assistance) which would have been applicable under that covered program in the year following the base fiscal year.

EFFECTIVE DATE AND CRITERIA DEVELOPMENT

Sec. 15. (a) This Act shall be applicable to assistance awarded for fiscal year 1980 and the subsequent four fiscal years.

(b) Within 180 days following the date of passage of this Act, the Administrator shall publish criteria for development of integrated program plans.

REGULATIONS

Sec. 16. The Administrator is authorized to issue necessary regulations for implemeantation of this Act.

AUTHORIZATION

Sec. 17. There are authorized to be appropriated, in addition to funds authorized to be appropriated under the covered programs, $25,000,000 for supplementary assistance under section 13 for fiscal year 1980 and such sums as may be necessary for each of the fiscal years 1981-84, to remain available until expended.

DETAIL OF PERSONNEL

Sec. 18. The Administrator, at the request of any recipient under this Act, may detail personnel of the Environmental Protection Agency (including commissioned officers of the Public Health Service assigned to the Environmental Protection Agency) to the recipient for the purpose of carrying out an approved integrated program plan, and may reduce the amount of assistance to the recipient by the amount of pay, allowances, traveling, expenses, and other costs related to the detail.

SUNSET PROVISION; REPORT TO CONGRESS

Sec. 19. This Act shall expire on September 30, 1984, unless extended by Congress. The Administrator shall submit to the Congress no later than September 30, 1983, a report setting forth the extent to which States, local governments, and interstate agencies have established and implemented integrated environmental quality management programs, an evaluation of such programs, and recommendations with respect to continuing the integrated assistance program.

SECTION-BY-SECTION ANALYSIS
INTEGRATED ENVIRONMENTAL ASSISTANCE ACT
OF 1979

In his 1977 Environmental Message, the President directed the Environmental Protection Agency to prepare proposed legislation to integrate the Agency's various categorical grants supporting State and local environmental programs.

One of the principal objectives in creating EPA was to provide a framework to deal with interrelated environmental problems and to implement programs and solutions in a more effective and efficient manner. In an attempt to encourage integrated environmental programs, the Agency has allowed administrative integration of categorical State program assistance for several years. In fiscal year 1978, sixteen States were participating in this program, even though it does not provide flexibility for States to transfer funds to meet their own unique environmental priorities and needs.

The draft "Integrated Environmental Assistance Act of 1979" has been developed to alleviate the problems identified in EPA's attempt at integration under its administrative authority. The Act would allow States to apply for integrated assistance, if they so desire, in lieu of separate categorical assistance. The Administrator of the Environmental Protection Agency is given the authority to award integrated assistance when a State submits a plan demonstrating that it can effectively implement an integrated environmental program.

Consistent with the President's commitment, the Act encourages integration of environmental planning by States and local governments and strengthens coordination between State and Federal programs. The Act also increases the recipient's flexibility to address its particular environmental priorities, to propose redirection of Federal assistance, and to simplify and improve administration of environmental programs.

Section 1 -- Short Title.

Self-explanatory.

Section 2 -- Declaration of Policy

This section declares the policy of Congress to be that comprehensive approaches to management of environmental programs are necessary at all levels of government - local, State, and Federal. Current program fragmentation often leaves gaps and allows over-laps which reduce environmental program effectiveness.

Section 3 -- Objective.

Section 3 states that the objective of the Act is to provide a mechanism to encourage EPA program recipients to design integrated environmental programs tailored to their specific needs.

Section 4 -- Definitions.

Section 4 provides basic definitions under the Act. In defining "covered programs" it establishes that integrated assistance may include program elements that address the objectives of any legislation for which the EPA Administrator is responsible (except for grants for the construction of wastewater treatment works). The integrated assistance program would permit use of assistance funds to support activities which are within EPA's mandate, but for which there is currently no assistance funding available.

Section 5 -- Integrated Program Plan.

Section 5 describes conditions that make integration appropriate; i.e., where separate program assistance may leave gaps or result in over-laps in environmental planning, management or implementation. It lists several examples of activities which can be integrated, and it establishes the basic content of integrated program plans. Integrated program plans must address the objectives of not less than two covered programs and they must adequately integrate the covered programs included. The section also requires that a single agency provide for the coordination and management of each recipient's proposed activities and that the public be adequately involved in development of integrated plans.

Section 6 -- Approval of Integrated Program Plan

Section 6(a) lists potential benefits of integrated assistance on which the Administrator is to base his requirements governing approval of integrated program plans. The approval requirements are to be flexible enough to promote each applicant's discretion in meeting its particular needs, provided the proposed integrated program is consistent with National objectives. The Administrator must also require that integrated program plans adequately consider the effects of one program on others and use common data bases and planning and evaluation processes when appropriate.

Section 6(b) limits a recipient's activities to those the Administrator determines are consistent with the purposes of the covered programs included in the recipient's integrated plan.

Section 6(c) requires timely Administrator review of proposed integrated program plans. The Administrator may approve all or part of the integrated program plan. However, if he denies an applicant's inclusion of any categorical program in an integrated award, the Act provides the applicant not less than 60 days to apply for categorical assistance for that program.

Section 6(d) establishes criteria for the Administrator's review of integrated program plans.

Section 6(e) requires the Governor of a State and the Chief executive officer of a local government to sign integrated assistance applications. This requirement is included to assure high level support and involvement in program integration.

Section 7 -- Authority; Limitations.

Section 7(a) authorizes the Administrator to award integrated assistance in lieu of categorical assistance to achieve the objectives of the Act and the substantive requirements of the covered programs included in each applicant's integrated program plan.

Section 7(b) clearly states that neither award of, nor application for, integrated assistance in one year obligates the Administrator to approve, nor the State to apply for, integrated assistance in a subsequent year. In fact, it requires the Administrator to make an affirmative finding that a previous year's award effectively served the purposes of the Act and the covered programs. It also provides criteria for the Administrator to consider in making this determination.

Section 7(c) is self explanatory.

Section 7(d) restricts participation to 15 States and 25 local governments in 1980 and, provided the Administrator finds the program was successful in 1980, to 30 States and 50 local governments in 1981. It requires competitive selection of recipients in 1980 which should assure that only the most capable States will receive integrated awards that year.

Section 8 -- Assistance for Local Governments and Interstate Agencies

Section 8 enhances EPA's ability to fund local programs by permitting local governments and interstate agencies to receive integrated assistance, with State concurrence. All current authorities for local governments and interstate agencies to receive categorical program grants continue in effect.

Normally local governments and interstate agencies will receive integrated grants as a pass-through from the State; however, under this legislation EPA may directly award integrated assistance to local governments and interstate agencies when the State either does not apply for integrated assistance, or does not make adequate provision for the local government or interstate agency, and the applicant is otherwise eligible to receive funds under the covered programs.

Local governments or interstate agencies may receive integrated assistance for programs for which they are not otherwise directly eligible, if the State consents and the Administrator agrees to their application. Generally, in such cases, the amount of the State's allotment will be reduced by the amount of the assistance to the local government.

Section 9 -- State/Local Consultation.

Section 9 emphasizes the requirement that States consult with local governments during the process of developing integrated program plans.

Section 10 -- Funding for Local Participation.

Section 10 requires that a local entity which is given responsibility for carrying out particular elements or outputs contained in an integrated program plan be given State or Federal funds through that plan, to meet its responsibility.

Section 11 -- Funding Flexibility.

Section 11 authorizes the Administrator to permit applicants flexibility to propose to transfer funds among the covered programs in their approved plans with a restriction. The State plan may not reduce the amount of funding for any categorical program to less than 80% of the level provided under the categorical assistance approach. (Funding flexibility also applies to non-Federal funds). If it is appropriate to the approved plan, for example, it would be possible to increase the funds in one program by shifting 20% of the funds from all the others. In other words, each categorical allocation could be reduced by up to 20%, and that sum could be used by any combination of the others -- as long as the activity is one for which the Administrator is responsible and is within the scope of the covered programs included under the recipient's integrated program plan.

Section 12 -- Accountability.

Section 12 is designed to tie recipient expenditures to the approved integrated program plan, and to relate recipient accounting to that plan, in lieu of current requirements for accounting by individual programs.

Section 13 -- Supplementary Assistance.

Section 13 allows each applicant for integrated assistance to compete with others for funds -- called supplementary assistance -- in addition to the amounts available from the allotments of the covered programs. Applicants applying for for supplementary assistance will propose non-recurring projects that are innovative, of special national significance, or that address other special environmental needs. Acceptable projects may include establishment of an environmental permit system, development of a State civil penalties program, start-up costs associated with assumption of pesticides enforcement delegation, establishment of State regional pollution control offices, or creation of an agency-wide environmental inspection system.

Section 13 also provides criteria which the Administrator will consider in ranking and selecting supplementary assistance projects.

Section 14 -- Administrative Provisions.

Section 14(a) provides for use of unobligated funds by the Administrator -- by reallotment, contract, or other appropriate means -- to achieve the purposes for which they were intended if the recipient does not achieve the expected program accomplishments.

Section 14(b) establishes a single maintenance-of-effort to replace the several existing matching and maintenance-of-effort requirements. This requires that the recipient expend in the fiscal year -- for recurrent costs, e.g. salaries, personnel benefits, and other continuing costs -- an amount that is not less than the amount spent for such purposes during the base fiscal year. The base fiscal year is the year prior to the year each covered program entered into integrated assistance. EPA may reduce the amount of non-Federal funds required if there is a general reduction in expenditures of executive branch agencies of the recipient.

Section 15 -- Effective Date and Criteria Development.

Section 15 establishes that integrated assistance may be awarded beginning in fiscal year 1980 and for four years thereafter.

The Administrator is to issue regulations to establish the program promptly (within 180 days) after passage of the Act.

Section 16 -- Regulations.

Section 16 provides general authority for EPA to issue necessary regulations to implement the Act.

Section 17 -- Authorization.

Section 17 provides, in addition to funds authorized to be appropriated under covered programs, that there be $25,000,000 authorized for supplementary assistance for the 1980 fiscal year and that such sums as necessary be authorized for the period 1981-84.

Section 18 -- Detail of Personnel.

Section 18 allows the Administrator to detail EPA employees to recipients to assist in carrying out an approved integrated program plan. Thus, EPA can provide any needed technical assistance, training or extra manpower. The section also allows the Administrator to reduce the recipient's assistance amount by the cost related to the detail.

Section 19 -- Sunset Provision; Report to Congress.

Section 19 establishes a "sunset provision". The Act will expire on September 30, 1984, unless Congress extends it.

The section also requires the Administrator to submit a report to Congress by September 30, 1983, which describes the extent recipients have integrated programs under the Act, evaluates those programs, and makes recommendations with respect to continuing the integrated assistance program.

STATEMENT OF

JAMES H. WILSON
Vice Mayor, City of Long Beach, California;
Member, Southern California Association of Governments;
and
President, National Association of Regional Councils

ON BEHALF OF THE
NATIONAL ASSOCIATION OF REGIONAL COUNCILS

Mr. Chairman, I am James Wilson, Vice Mayor of Long Beach, California, and President of the National Association of Regional Councils. I appreciate the opportunity to testify before the Subcommittee on both HR 6667 and the Carter Administration's proposal to reauthorize funding for certain sections of the Federal Water Pollution Control Act.

The National Association of Regional Councils represents approximately 350 of the 600 existing regional councils currently in operation in the United States. Regional councils are public organizations encompassing a regional community. Through communication, planning, policy making, coordination and technical assistance, councils serve the local governments and citizens in a region by dealing with issues and needs which cross city, county and, in some instances, state boundaries. The basic responsibility of a regional council is to be an umbrella agency which provides comprehensive areawide policy planning, coordinates regional functional planning and operational agencies, and arranges for the implementation of regional policies.

NARC is particularly concerned about the reauthorization of the Section 208 areawide waste treatment management program. Both HR 6667 and the Carter Administration's proposal provide for a two-year reauthorization of the program through FY'82. HR 6667 provides an authorized funding level of $150 million, while the Administration's proposal calls for a $34 million funding level, an amount consistent with the President's FY'81 budget request.

NARC supports an authorization level of $150 million. However, we propose that the Section 208 program be reauthorized for one year only so that a more thorough examination of the program can take place at the Subcommittee's earliest opportunity next year.

NARC realizes the time constraints upon both this panel and the entire Congress this year. Time does not permit the close examination of the structure and administration of Section 208 at this time. However, NARC strongly believes that a congressional clarification of this program is needed and that it should be pursued at the earliest opportunity. A simple one-year reauthorization of the program would lead to such an early examination.

Our rationale for this proposal is as follows.

According to the legislative history of the 208 program, Congress intended it to be a broad, continuing planning process which addressed both point and nonpoint sources of water pollution. The program's mandate is an ambitious one and pursuit of its goals have been hampered by uneven federal management and severe funding difficulties.

As you know, the Environmental Protection Agency has modified the program substantially and limited its comprehensive mandate. Recently, the agency has moved to turn 208 into a narrowly focused non-point source demonstration program. And while the results of the program to date justify that central attention be given to the non-point source issues, we feel that such single emphasis is not the best approach at this time.

NARC believes that program flexibility is of paramount importance. The program should remain comprehensive and support a continuing planning process which addresses other relevant issues besides non-point sources of pollution. To that end, it should provide for update and review of existing regional strategies for fulfilling the nation's water quality goals.

Flexibility Necessary For Viable Local Role

The 208 program was originally designed to include a strong local decision-making role. If the program is shifted to a narrowly-defined non-point source demonstration program as EPA proposes, then areawide planning and decision-making processes that are absolute necessities in complex areas will be lost. But this is bound to happen under the current approach. The continuing development of data and the examination of alternate strategies for meeting water quality standards cannot exist if the bulk of 208 money is for funding demonstration projects. Moreover, the political and planning linkages necessary for the States and EPA to attain the national water quality objectives will disappear under a narrowly focused program. In short, if EPA defines national priority problems and funds only demonstration projects dealing with those problems, the local analytical process and the political support that it provides for solving sensitive environmental issues will be seriously impaired. In our opinion, the majority of the approximately 128 designated agencies with approved and certified 208 plans would have to abandon the program and terminate their staffs under this approach.

Also of great concern is that EPA has noted its intention not to fund plan update and review. NARC believes that 208 planning agencies with adopted, state certified and EPA approved plans should receive continuing funding to assure updating and implementation of their 208 plans. For EPA to withdraw support for these activities at this time opens local governments and regional planning bodies to possible citizen suits under Section 505 of the Act. Plans which do not respond to changing conditions can hardly be used as guidance for construction funding under 201 — a linkage specifically called for in the Act. Therefore, the validity of older plans used for this purpose could be challenged.

It is clear that the manner in which EPA is administering the 208 program is inconsistent with the original intent of Congress when it designed 208. A simple reauthorization of 208 would be treated as a congressional reaffirmation of original intent. We believe this would put many local governments in an untenable position. As previously noted, 201 facility grants (and 402 discharge permits), because of their linkage to 208, would be subject to legal challenge because of the failure to maintain 208 plans as currently required.

In light of these issues, a congressional re-examination and revision of 208 is certainly in order.

Components Of A Revised 208 Program

In NARC's opinion, a revised 208 program should focus on responding to issues of cost effectiveness and alternatives analysis of realistic options for meeting water quality problems. This is the only way that we can identify and deal with the trade-off issues concerning the relative advantages of developing costly advanced treatment facilities versus reducing pollutant loadings through non-point source measures. It should include a priority for dealing with non-point source and urban run-off problems.

Above all, it should remain flexible. Designated agencies should be permitted to respond to their particular regional problems where those problems deviate from those receiving national emphasis.

The successor program should permit the fulfillment of national objectives on energy and growth and maintain other environmental standards.

A partnership arrangement between state, regional and local participants in the planning process should be established with the concurrence of all parties required on all major policy and planning decisions. If an impasse results, the federal government could withhold support and Section 402 permit renewals until agreement is reached.

Also, the analytical need of alternative analysis and provision of an adequate information base to support regulatory decisions should be supported with federal funds.

These issues need to be explored by the Congress; if Congress does not take the initiative on this and provide guidance to EPA, the 208 program will be in jeopardy. In fact, the repercussions of erratic federal guidance are already being felt by many local agencies. Some have simply become so frustrated that they have withdrawn from the program.

Therefore, it is of prime importance that Congress examine these issues at its earliest opportunity. A one-year reauthorization of the program would necessitate a reopening of the issues early next year.

Reauthorization In 1981 Not Premature

Some might argue that dealing with the 208 planning process next year would be premature. The reason for such an argument is obvious; most of the provisions in the Clean Water Act will be considered for renewal and adjustments in 1982. Thus, it could be argued, a planning process which would assist in federal, state, areawide and local decisions on water quality issues should serve and reflect the changes in the Act that are bound to come about in 1982.

We do not agree with this point of view, however. A clear determination of the kind of planning process that would aid and assist in making wide decisions in utilizing federal resources to meet national water quality goals can be defined without knowing the particular substantive changes in the present federal legislation. In fact, the definition of the planning process and how it might assist in developing a better understanding of the alternatives and their cost effective implications may well assist in developing the changes to substantive legislation envisioned in 1982.

NARC urges this panel to support a simple one-year reauthorization at the $150 million level so that these crucial issues so important to our nation's water quality goals can be addressed as soon as possible.

Thank you.

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